99th Congress
1st Session

SENATE

REPORT
99-35

ACTIVITIES OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS

REPORT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

AND ITS

SUBCOMMITTEES

FOR THE

NINETY-EIGHTH CONGRESS

APRIL 22 (legislative day, APRIL 15), 1985.—Ordered to be printed

---

U.S. GOVERNMENT PRINTING OFFICE
45-649 O WASHINGTON : 1985

S403-1

COMMITTEE ON GOVERNMENTAL AFFAIRS

WILLIAM V. ROTH, JR., Delaware, *Chairman*

TED STEVENS, Alaska	THOMAS F. EAGLETON, Missouri
CHARLES McC. MATHIAS, JR., Maryland	LAWTON CHILES, Florida
WILLIAM S. COHEN, Maine	SAM NUNN, Georgia
DAVID DURENBERGER, Minnesota	JOHN GLENN, Ohio
WARREN RUDMAN, New Hampshire	CARL LEVIN, Michigan
THAD COCHRAN, Mississippi	ALBERT GORE, JR., Tennessee

JOHN M. DUNCAN, *Staff Director*
GRETTA E. GRAHAM, *Professional Staff Member*
MARGARET P. CRENSHAW, *Minority Staff Director*
TERRY JOLLY, *Chief Clerk*

COMMITTEE ON GOVERNMENTAL AFFAIRS DURING THE 98TH CONGRESS

WILLIAM V. ROTH, JR., Delaware, *Chairman*

CHARLES H. PERCY, Illinois	THOMAS F. EAGLETON, Missouri
TED STEVENS, Alaska	LAWTON CHILES, Florida
CHARLES McC. MATHIAS, JR., Maryland	SAM NUNN, Georgia
WILLIAM S. COHEN, Maine	JOHN GLENN, Ohio
DAVID DURENBERGER, Minnesota	JIM SASSER, Tennessee
WARREN RUDMAN, New Hampshire	CARL LEVIN, Michigan
JOHN C. DANFORTH, Missouri	JEFF BINGAMAN, New Mexico
THAD COCHRAN, Mississippi	DAVID PRYOR, Arkansas
WILLIAM L. ARMSTRONG, Colorado	

CONTENTS

		Page
I.	Highlights of activities	1
II.	Committee jurisdiction	2
III.	Bills and resolutions referred and considered	3
IV.	Hearings	3
V.	Reports, prints, and studies	4
VI.	Official communications	4
VII.	Legislative actions	4
	Measures enacted into law:	
	Competition-in-Contracting Act	5
	Arctic Research and Policy Act	5
	Amending the Debt Collection Act	5
	Mail order consumer protection amendments	5
	Extension of the authorization for the Office of Government Ethics	6
	National Archives and Records Administration Act	6
	Merit Pay Reform Act	6
	Office of Federal Procurement Policy amendments	6
	Extending the Federal Physicians Comparability Act	7
	Publication of the Catalog of Federal Domestic Assistance Programs	7
	Uniform Single Financial Audit Act	7
	Extending authorization of appropriations for the National Historical Publications and Records Commission	8
	Amending the District of Columbia Retirement Reform Act	8
	Cigarette Safety Study Act	8
	Increasing the number of superior court judges in the District of Columbia	9
	Civil Service Former Spouses Benefits Act	9
	Measures which passed the Senate and House but did not become law:	
	Advisory Commission on Intergovernmental Relations	9
	Measures which passed the Senate:	
	Commission on More Effective Government	9
	Uniform Relocation Assistance and Real Property Acquisition Policies Act Amendments	10
	Commission on the Centennial Review of the Civil Service	10
	Selected bills which were reported or ordered reported from the committee:	
	Department of International Trade and Industry	10
	Former Presidents Facilities and Services Act	11
VIII.	Description of major Full Committee hearings	11
IX.	Presidential nominations	14
X.	Activities of the subcommittees	14
	Permanent Subcommittee on Investigations	15
	Subcommittee on Governmental Efficiency and the District of Columbia	25
	Subcommittee on Energy, Nuclear Proliferation, and Government Processes	33
	Subcommittee on Information Management and Regulatory Affairs	37
	Subcommittee on Intergovernmental Relations	39
	Subcommittee on Civil Service, Post Office, and General Services	44
	Subcommittee on Oversight of Government Management	49

99TH CONGRESS
1st Session

SENATE

REPORT
99-35

ACTIVITIES OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS DURING THE 98TH CONGRESS

APRIL 22 (legislative day, APRIL 15), 1985.—Ordered to be printed

Mr. ROTH, from the Committee on Governmental Affairs, submitted the following

REPORT

This report reviews the legislative and oversight activities of the Committee on Governmental Affairs during the 98th Congress. These activities parallel the broad scope of responsibilities vested in the Committee by the Legislative Reorganization Act of 1946, as amended, rule XXV (k) of the Standing Rules of the Senate, and additional authorizing resolutions.

I. HIGHLIGHTS OF ACTIVITIES

During the 98th Congress, the Governmental Affairs Committee emphasized its role as the Federal Government's "Congressional watchdog" through its efforts to reduce Government regulation, streamline Federal agencies and programs and eliminate waste, fraud and mismanagement. Under the leadership of Senator William V. Roth, Jr., the Committee considered numerous legislative measures designed to improve management practices and promote the efficient operation of the Federal bureaucracy. The Committee devoted a significant amount of time to oversight of the management of Federal agencies, most notably, the Department of Defense.

Not long after the new Congress convened, Senator Roth decided that the management of the Defense Department should be a focus of Committee activity. In light of the growing budget deficits and cuts in domestic spending, the Chairman felt that the Pentagon should be doing more to strengthen its own operations and ensure that taxpayers were getting the most for their defense dollars. The Committee's investigations over the last 2 years have highlighted a wide range of wasteful practices throughout the Pentagon, many of which had been occurring for years.

One of the Committee's most interesting defense hearings concerned the purchase of spare parts and support equipment. The Committee uncovered specific examples of overpricing, such as the Allen wrench ordered by the Air Force, where the military was offered parts costing thousands of dollars when they could actually be purchased for a few dollars or cents. The Committee's activities served to focus public attention on this issue, and as a result, many of the contract proposals were withdrawn or resubmitted at acceptable prices.

The Committee examined a number of other defense management problems including poor operational testing procedures, problems in the application of various financial and accounting standards in defense contracts, ineffective cost estimating for major weapons programs, and irregularities in Navy shipbuilding programs. One major result of the Committee's activities in the defense area was the establishment of an independent Office of Operational Testing within DoD.

Another central issue on the Committee's agenda involved the lack of competition in the awarding of Federal contracts. The focal point of the Committee's activity was the consideration and ultimate passage of the Competition-in-Contracting Act. This legislation establishes a Government-wide standard of "full and open" competition with regard to all Federal contracts, and provides for limitations and penalties on the use of "sole-source" contracting practices.

The Committee also spent considerable time in examining legislative measures to address the growing problem of increased foreign competition and the lack of a cohesive U.S. trade policy. The primary legislation was Senator Roth's bill to create a new Department of international Trade and Industry. This measure sought to consolidate the various U.S. trade functions now served by the Department of Commerce, Department of Treasury, and the Office of the U.S. Trade Representative. The Committee held an eight-part series of hearings on this legislation during the 98th Congress.

Each of the subcommittees also examined a number of issues within their individual jurisdictions, ranging from investigative activities on organized crime, money laundering, and technology transfer to Federal paperwork reduction, the District of Columbia government, and energy management. These issues are discussed in greater detail in the succeeding sections of this report.

II. COMMITTEE JURISDICTION

The jurisdiction and functions of the Committee on Governmental Affairs were substantially enlarged in the 95th Congress when the Senate approved the Committee System Reorganization Amendments of 1977 (S. Res. 4, 95–1, February 4, 1977) which also changed its name from the Committee on Government Operations to the Committee on Governmental Affairs.

Rule XXV (k) of the Standing Rules of the Senate requires reference to this Committee of all proposed legislation, and other matters, dealing with (1) archives of the United States; (2) budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974; (3) census and collection

of statistics, including social and economic statistics; (4) congressional organization, except for matters which amend the rules or orders of the Senate; (5) Federal civil service; (6) Government information; (7) intergovernmental relations; (8) municipal affairs of the District of Columbia, except appropriations therefor; (9) organization and management of U.S. nuclear export policy; (10) organization and reorganization of the executive branch of the Government; (11) Postal Service; and (12) status of officers and employees of the United States including their classification, compensation and benefits.

The Committee is further authorized and directed to (1) receive and examine reports of the Comptroller General of the United States and to submit to the Senate such recommendations as the Committee deems advisable; (2) study the efficiency, economy and effectiveness of all agencies and departments of the Government; (3) evaluate the effects of laws enacted to reorganize the legislative and executive branches of the Government; and (4) study the intergovernmental relationships between the United States and States and municipalities, and between the United States and international organizations of which the United States is a member.

In addition, the Committee has primary oversight and legislative jurisdiction over the General Accounting Office, the Office of Personnel Management, the Office of Management and Budget, the Postal Service and the General Services Administration, and processes all legislation relating to the disposal of federal surplus property, and the negotiated sale thereof.

III. BILLS AND RESOLUTIONS REFERRED AND CONSIDERED

During the 98th Congress, 194 Senate bills and 28 House bills were referred to the Committee for consideration. Also referred were 25 Senate resolutions (joint, concurrent or simple resolutions). No reorganization plans were submitted. Of the legislation received and considered, 31 bills were reported, 22 became law, none were vetoed, and 8 resolutions were agreed to.

IV. HEARINGS

The Committee and its seven subcommittees held a total of 99 hearings covering 139 days during the 98th Congress. In addition to hearings held on legislative measures and nominations, these hearings explored a wide variety of topics, including:

(1) Reauthorization of the Office of Government Ethics; (2) EPA Chesapeake Bay Cleanup Program; (3) Mail Order Consumer Protection Amendments; (4) Organized Crime in Chicago; (5) Oversight of General Revenue Sharing; (6) Merit Pay and Proposed Pay-for-Performance Regulations; (7) Emergency Preparedness in the Washington Metropolitan Area; (8) Trade Reorganization; (9) Crime and Secrecy: The Use of Offshore Banks and Companies; (10) Management of the Department of Defense; (11) Hotel Employees and Restaurant Employees International Union; (12) Budget Reform Act; (13) Oversight of the Paperwork Reduction Act of 1980; (14) Federal Physicians Comparability Legislation; (15) Oversight of Federal Debt Collection; (16) Management of the Department of Energy; (17) National Outdoor Recreation Resources Review Com-

mission; (18) Uniform Single Financial Audit Act; (19) Oversight of the Management of the U.S. Synthetic Fuels Corporation; (20) National Archives and Records Administration; (21) D.C. Home Rule Act; (22) Benefits to Former Presidents; (23) Oversight of the 1946 Federal Regulation of Lobbying Act; (24) Comparison of Pay and Benefits Between Uniformed Military and Federal Civilian Employees; (25) Program Fraud Civil Penalties Act of 1983; (26) Commodities Investment Fraud; (27) Civilian Agency Multi-year Contractor Act; (28) Census Bureau; (29) Transfer of Technology; (30) Cigarette Safety Study Act; (31) Computer Matching: Taxpayer Records; (32) Drug Abuse Among Youth; (33) The Relationship Between Congress and the Executive Branch in the Formulation and Implementation of Foreign Policy; (34) Civil Service Former Spouses Benefits Act; (35) State Lotteries; (36) Video Gambling.

V. REPORTS, PRINTS, AND STUDIES

The Committee and its subcommittees prepared and issued 37 reports, special prints and studies during the 98th Congress. They included: (1) Cost Growth in Weapons Systems: Recent Experience and Possible Remedies; (2) Chart and Supplement on the Organization of Federal Executive Departments and Agencies (1983 and 1984); (3) Federal Statistics and National Needs; (4) Crime and Secrecy: The Use of Offshore Banks and Companies; (5) Report of the District of Columbia Court System Study Committee of the District of Columbia Bar; (6) Limiting State-Local Tax Deductibility in Exchange for Increased General Revenue Sharing: An Analysis of the Economic Effects; (7) Oversight of the Management of the U.S. Synthetic Fuels Corporation; (8) The Role of the Administrative Law Judge in the Title II Social Security Disability Insurance Program; (9) Federal Computer Security: An Analysis of Congressional Initiatives and Executive Branch Responsibilities; (10) Forums on Federal Pensions; (11) Ethics in Government Act of 1978 as Amended by Public Laws 96-19, 96-28, 97-409, and 98-150; (12) Waterfront Corruption; and (13) Collection of Criminal Fines.

VI. OFFICIAL COMMUNICATIONS

During the 98th Congress, the Committee received a total of 785 official communications; 55 from the Comptroller General of the United States, and 730 from executive departments and agencies. These communications included reports to advise and inform the Congress, required annual or semi-annual agency budget and activities summaries, and requests for legislative action. In addition, 26 petitions and memorials were referred to the Committee.

VII. LEGISLATIVE ACTIONS

For information not included in this section please refer to the Committee's legislative calendar.

Following are brief legislative histories of all measures referred to the Governmental Affairs Committee which: (1) became public law; (2) were passed by the Senate, but not acted upon by the House of Representatives; (3) were favorably reported by the Com-

mittee but were not passed by the Senate; and (4) were agreed to in the Senate, in the case of resolutions.

Measures Enacted Into Law

COMPETITION IN CONTRACTING ACT OF 1983

S. 338 was introduced on February 1, 1983 by Senator Cohen. In an effort to increase competition in contracting throughout the Federal Government, S. 338 establishes a statutory preference for the competitive procedures in the awarding of Federal contracts for property or services, imposes restrictions on the award of non-competitive contracts, and permits Federal agencies to select the competitive method best suited to the specific contract.

S. 338 was favorably reported by the Governmental Affairs and Armed Services Committees, and passed the Senate by voice vote on November 11, 1983. The measure was signed into law on July 18, 1984 (Public Law 98-369).

ARCTIC RESEARCH AND POLICY ACT OF 1983

S. 373 was introduced by Senator Murkowski on February 1, 1983. The bill provides the basis for a comprehensive national Arctic research policy in conjunction with a sustained research effort to ensure the continued utilization of Arctic resources in a responsible manner.

This legislation was favorably reported by the Committee on June 21, 1983 (S. Rept. 98-159) and passed by the Senate on June 27, 1983. S. 373 was signed into law on July 31, 1984 (Public Law 98-373).

AMENDING THE DEBT COLLECTION ACT OF 1982

S. 376, to amend the Debt Collection Act of 1982, was introduced by Senator Percy on February 2, 1983. The bill is intended to increase the efficiency and effectiveness of Federal debt collection by allowing Federal agencies greater flexibility in contracting with private collectors. A provision in the original debt limit legislation was inhibiting the efforts of Federal departments in contracting with collection agencies. S. 376 corrects this problem by allowing Federal agencies to contract with private collectors without the requirements of advance appropriations.

S. 376 was reported in the Senate on May 5, 1983 (S. Rept. 98-75). It passed the Senate on May 20, 1983, and was signed into law on November 29, 1983 (Public Law 98-167).

MAIL ORDER CONSUMER PROTECTION AMENDMENTS OF 1983

S. 450 was introduced by Senator Pryor on February 3, 1983. The purpose of this legislation is to protect the public from being injured by false representation schemes to obtain money or property through the mails. The Postal Service will be able to take more prompt administrative action against the operators of such schemes, and the courts will be empowered to penalize operators who violate the orders resulting from administrative proceedings.

S. 450 was reported out by the Committee on March 31, 1983 (S. Rept. 98-51), and passed the Senate on November 3. The bill became law on November 30, 1983 (Public Law 98-186).

EXTENSION OF AUTHORIZATION FOR THE OFFICE OF GOVERNMENT ETHICS

S. 461, to extend the authorization for the Office of Government Ethics for an additional 5 years, was introduced by Senator Cohen on February 3, 1983. This measure is designed to ensure an effective ethics system and to prevent conflicts of interest throughout the executive branch by strengthening the Office of Government Ethics.

S. 461 was reported from the Committee on March 24 (S. Rept. 98-59), and passed the Senate on April 6, 1983. It was signed into law on November 11, 1983 (Public Law 98-150).

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION ACT OF 1984

S. 905 was introduced on March 23, 1983 by Senator Eagleton. This bill establishes the independence of the National Archives and Records Service from the General Services Administration.

A hearing was held on S. 905 on July 29, 1983 (S. Hrg. 98-488). The measure was reported on April 3, 1984 (S. Rept. 98-373), and passed by the Senate on June 21, 1984 by voice vote. After a conference on October 1, 1984, both the House and Senate agreed to the conference report. S. 905 was signed into law by the President on October 19, 1984 (Public Law 98-497).

MERIT PAY REFORM ACT OF 1983

S. 958 was introduced by Senators Trible and Warner on March 24, 1983. This legislation alters the Government-wide merit pay system to ensure that it acts as an incentive for promoting a high-quality Federal workforce.

The frequency and amount of merit pay awards has varied greatly throughout the Federal Government. S. 958 provides a standardized system for performance appraisal which would ensure equitable distribution of merit pay awards and foster improved productivity and moral among Federal workers.

S. 958 was reported by the Committee on February 3, 1984 (S. Rept. 98-351), and passed the Senate by voice vote on March 1, 1984. The bill was signed into law on November 8, 1984 (Public Law 98-615).

OFFICE OF FEDERAL PROCUREMENT POLICY AMENDMENTS OF 1983

S. 1001, to extend the authorization of appropriations for the Office of Federal Procurement Policy, was introduced by Senator Cohen on April 7, 1983. The Office of Federal Procurement Policy was originally created in 1974, based on recommendations of the Commission on Government Procurement, to promote economy and efficiency in the procurement of property and services by the executive branch of the Federal Government. The OFPP, which is located in the Office of Mangement and Budget, is responsible for ensuring that Federal agencies procure competitively, eliminate fraud

in their contracting activities, and obtain all goods and services at the lowest possible cost.

S. 1001 was referred to the Subcommittee on Oversight of Government Management, which held a hearing on April 27, 1983. On August 1, 1983, the Full Committee reported the bill with an amendment (S. Rept. 98-214). Subsequently, the Senate passed a similar bill, H.R. 2293, after inserting the text of S. 1001. H.R. 2293 was signed into law on December 1, 1983 (Public Law 98-191).

EXTENDING THE FEDERAL PHYSICIANS COMPARABILITY ACT OF 1978

S. 1009 was introduced by Senators Mathias and Stevens on April 7, 1983.

In comparison to more lucrative private practice, Federal agencies have always had difficulty in retaining the services of skilled physicians. Since 1978, when the first Federal Physicians Comparability legislation was enacted, Federal agencies have been able to attract and retain the services of highly qualified physicians through service contracts which grant up to $10,000 in comparability allowances. S. 1009 extends the original Federal Physicians Comparability legislation to permanently authorize executive agencies to offer service agreements to those physicians.

S. 1009 was considered by the Subcommittee on Civil Service and Post Office in a hearing held on May 25, 1983. It was reported by the Full Committee with an amendment on August 4, 1983 (S. Rept. 98-218). On September 30, 1983, the Senate agreed to the Committee amendment and passed House companion legislation, H.R. 2077, after inserting the text of S. 1009. H.R. 2077 was agreed to by the House and Senate (Conf. Rept. 98-307) and the measure became law on November 29, 1983 (Public Law 98-168).

PUBLICATION OF THE CATALOG OF FEDERAL DOMESTIC ASSISTANCE PROGRAMS

S. 1267 was introduced on May 12, 1983 by Senator Durenberger. The purpose of the legislation is to effect the transfer of responsibility for the publication of the catalog of Federal domestic assistance programs from the Director of the Office of Management and Budget to the Administrator of the General Services Administration.

This bill was considered by the Intergovernmental Relations subcommittee in a hearing on May 12, 1983 and reported by the Committee on September 1, 1983 with amendments (S. Rept. 98-216). The Senate approved S. 1267 on October 27, 1983 by voice vote. On October 18, the Senate passed H.R. 2592 after inserting the text of S. 1267, and the legislation became law on November 29, 1983 (Public Law 98-169).

UNIFORM SINGLE FINANCIAL AUDIT ACT OF 1983

S. 1510, introduced by Senator Durenberger on June 21, 1983, establishes requirements for a uniform single financial audit of all Federal funds received by State or local governments.

Audits are the principal means of ensuring the proper expenditure of Federal assistance funds. The current system often reviews

the same programs repeatedly, and proves excessively burdensome to state and local jurisdictions. This approach wastes limited audit resources and frequently fails to provide the necessary information to the Federal Government.

The coordinated, comprehensive audit established in S. 1510 reduces excessive visits by Federal auditors and places greater reliance on qualified State and local audits. In this way, a balance can be achieved between the need to oversee the use of Federal funds and the goal of eliminating undue burdens on recipient jurisdictions.

S. 1510 was reported on August 3, 1983. It passed the Senate on November 2, 1983 and was signed into law on October 19, 1984 (Public Law 98-502).

EXTENDING AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

S. 1513 was introduced by Senator Hatfield on June 21, 1983 and referred to the Civil Service Subcommittee. S. 1513 was reported to the Senate on August 4, 1983 (S. Rept. 98-219). On October 6, 1983, the measure passed the Senate by voice vote. Subsequently, the Senate considered companion legislation, H.R. 2196, which was passed after the insertion of the text of S. 1513. The House agreed to the Senate amendment by unanimous consent, and the bill became law on November 30, 1983 (Public Law 98-189).

AMENDING THE DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

S. 1625 was introduced by Senator Eagleton on July 15, 1983. It was reported by the Committee on August 2, 1983 (S. Rept. 98-217). Both the Senate and House passed the bill by voice vote and the measure was signed into law on September 30, 1983 (Public Law 98-104).

CIGARETTE SAFETY STUDY ACT

S. 1935 was introduced by Senator Heinz on October 6, 1983. It establishes a Federal interagency task force to study economic and technical means of producing less flammable cigarettes and other tobacco products.

The problem of cigarette-caused fires is a serious one. Such fires are responsible for more than $300 million in property damage each year and more than one-third of the deaths attributed to fires in this country. Although legislation cannot prevent these fires, it can have an effect in reducing the number of such occurrences. S. 1935 provides the expertise and guidance required to begin a serious effort to develop safer cigarettes.

The Committee reported S. 1935 on May 25, 1984. The Senate considered and passed a House companion bill, H.R. 1880, after inserting the text of S. 1935. This legislation was signed into law by the President on October 30, 1984 (Public Law 98-567).

INCREASING THE NUMBER OF SUPERIOR COURT JUDGES IN THE DISTRICT OF COLUMBIA

The Governmental Affairs Committee received H.R. 3655, a bill to raise the retirement age for judges of the D.C. Superior Court, on October 5, 1983 and referred it to the Subcommittee on Governmental Efficiency and the District of Columbia.

H.R. 3655 was reported to the Senate on November 17, 1983, at which time the text of S. 2075 was inserted into the House bill (no written report). S. 2075, introduced by Senator Specter on Nov. 9, 1983, included provisions to raise the number of District of Columbia Superior Court judges from 7 to 51. H.R. 3655 passed the Senate by voice vote on February 11, 1984 and signed into law on March 19, 1984 (Public Law 98-235).

CIVIL SERVICE FORMER SPOUSES BENEFITS ACT OF 1984

S. 2821 was introduced on June 28, 1984 by Senator Mathias. It was referred to the Subcommittee on Civil Service and Post Office, which held a hearing on August 1, 1984.

On October 10, 1984, the Senate passed similar legislation, H.R. 2300, with amendments, by voice vote. The House concurred in the Senate amendments, and the President signed the bill on November 8, 1984 (Public Law 98-615).

MEASURES WHICH PASSED THE SENATE AND HOUSE BUT DID NOT BECOME LAW

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS (ACIR)

S. 1052 was introduced by Chairman Roth on April 14, 1983. The legislation would add a local elected school board member and an elected official from town or township government to the ACIR and make certain changes in the commission's operations.

Since 1959, the ACIR has provided a forum for representatives from Federal, State, and local government to discuss and seek solutions to intergovernmental problems. S. 1052 seeks to recognize the important contribution made by school board and local town or township officials in local affairs, while maintaining the intergovernmental and bipartisan balance established in the commission's membership.

S. 1052 was considered by the Subcommittee on Intergovernmental Relations. On August 3, 1983, the Full Committee favorably reported the bill (no written report), and it passed in the Senate by voice vote on September 14, 1983. An amended version passed the House on October 2, 1983. The Senate further amended the bill and returned it to the House for consideration.

MEASURES WHICH PASSED THE SENATE

COMMISSION ON MORE EFFECTIVE GOVERNMENT

S. 35 was introduced by Senator Roth on January 26, 1983. It seeks to establish an 18 member, bipartisan Commission on More Effective Government which would examine the performance of our Nation's governments with the goal of making recommenda-

tions for change and encouraging action to implement those recommendations.

The commission would conduct its evaluations over a 24-month period. Special attention would be directed toward the management, organization, and operations of the executive branch and its relationships with the other branches of Government, State, and local jurisdictions and the private sector.

S. 35 was reported on April 26, 1983 (S. Rept. 98–66), and passed the Senate with an amendment on November 17, 1983.

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT AMENDMENTS OF 1984

S. 531 was introduced by Senator Durenberger on February 17, 1983. It is a comprehensive statutory revision of the Uniform Relocation Act of 1970 (URA), the first such revision since URA was enacted. This legislation was designed to correct a number of problems in the administration of URA by improving State and local discretion in the implementation of the Act and incorporating a broad range of management-oriented reforms to reduce or eliminate windfall payments, abuses and program duplications.

The URA was originally enacted to consolidate the diverse relocation assistance requirements found in the regulations and authorizing statutes of 20 Federal agencies, bureaus, and departments. These requirements generally provided assistance to homeowners and businesses displaced through federally funded projects. Most of the affected projects were undertaken by State and local governments using Federal grants funds including urban renewal and community development projects. S. 531 would reduce red tape and costly overhead associated with the assistance programs and ensure that all those deserving of compensation for forced relocation due to a federally funded project receive it.

S. 531 was reported with an amendment on May 5, 1983 (S. Rept. 98–71). The Senate passed the bill as amended by voice vote on May 20, 1983.

COMMISSION ON THE CENTENNIAL REVIEW OF THE CIVIL SERVICE

S. 803 would establish a national commission on the Centennial Review of the Civil Service. It was introduced by Senator Warner on March 14, 1983.

This legislation was referred to the Civil Service Subcommittee, which held a hearing on November 2, 1983. The Full Committee reported the bill with an amendment on February 21, 1984 (S. Rept. 98–356), and it passed in the Senate by voice vote on March 22, 1984.

SELECTED BILLS WHICH WERE REPORTED OR ORDERED REPORTED FROM THE COMMITTEE

DEPARTMENT OF INTERNATIONAL TRADE AND INDUSTRY

S. 121, a bill to establish a new Department of International Trade and Industry, was introduced by Chairman Roth on January 26, 1983. The purpose of this legislation and the new Department is to provide the institutional support for efforts to meet several prin-

cipal national goals, including maintenance of U.S. leadership in international trade liberalization and expansion, reinvigoration of our ability to compete in international markets, and the expansion of our participation in international trade and investment through the promotion and marketing of American products and services.

S. 121 would consolidate many of our currently fragmented trade policy processes and encourage a more cohesive and aggressive approach to trade development. The new Department would provide a single focus for our international trade interests and those of our trading partners.

The Committee held eight hearings on S. 121, taking testimony from representatives of government, industry, agriculture and knowledgeable private citizens. S. 121 was favorably reported from the Committee on October 4, 1983 (S. Rept. 98–374).

FORMER PRESIDENTS FACILITIES AND SERVICES ACT OF 1983

S. 563 was introduced on February 23, 1983 by Senator Chiles, and cosponsored by Chairman Roth. This legislation sought to establish a reasonable set of controls on Federal spending for programs to support former Presidents. The bill would make changes in three major areas—staff and travel allowances, the size of Presidential libraries, and Secret Service protection.

Through several laws, including the original Former Presidents Act of 1958, Congress has affirmed a national policy to assist former Presidents in leading dignified retired lives, free from the need to "commercialize" the institution of the Presidency. However, the cost of maintaining this policy has risen from $64,000 in 1955 to $6.3 million in 1975 to more than $27 million in 1983.

The increase in costs of benefits to former Presidents greatly exceeds the expectations originally legislated for by Congress. S. 563 would cap these increasing costs while continuing to provide a reasonable amount of support to former Chief Executives so they can respond to the public and fulfill their roles as elder statesmen and advisors to the Nation and its citizens.

The Committee approved S. 563 and reported it to the Senate on May 9, 1984 (S. Rept. 98–637).

VIII. DESCRIPTION OF MAJOR FULL COMMITTEE HEARINGS

For information not included in this section please refer to the legislative calendar.

TRADE REORGANIZATION

In March 1983, the Committee began a series of hearings to consider S. 121, the Chairman's bill to create a new Department of International Trade and Industry. A total of eight hearings were held on this legislation in order to present all aspects of the proposed reorganization and to elicit opinions from as many knowledgeable and interested sources as possible. The witnesses included William E. Brock, U.S. Trade Representative; Malcolm Baldrige, Secretary of the Department of Commerce; Robert Strauss, former U.S. Trade Representative; Adlai P. Stevenson; Senator Daniel P.

Moynihan, representatives from State and local governments, and members of the business, financial and agricultural communities.

Reform of the Federal Budget Process

The Committee held a hearing on May 5, 1983 to consider S. 20, a bill introduced by Senator Roth to establish a biennial budget cycle for the Federal budget. Equivalent legislation was considered by the Committee in the 97th Congress, by no final action was taken. Testimony was received from John H. Sununu, Governor of New Hampshire, and Comptroller General Charles A. Bowsher. The witnesses generally supported the idea of a biennial budget schedule because it would put Federal and State budget processes on a similar time line, making it easier to determine and monitor both authorizations and actual spending.

Oversight of the Department of Defense

On March 23, 1983, the Committee initiated what became a 10-part series of oversight hearings into the Pentagon's acquisition and procurement activities. The hearings were intended to examine various aspects of the Pentagon management and to implement corrective measures.

The 10-part hearings examined a broad cross-section of management problems, ranging from defective pricing and poor cash management procedures, operational testing and evaluation, cost estimating and reporting, and contract auditing procedures in the Defense Contract Audit Agency. The hearings also focused on specific weapons systems such as the DIVAD Air Defense Gun, the HUMWV all-purpose vehicle, and contract management and construction of U.S. nuclear aircraft carriers and submarines.

National Archives and Records Administration

On July 29, 1983, the Committee held a hearing to consider S. 905, a bill to establish the National Archives and Records Administration as an independent agency from the General Services Administration. Proponents of the legislation contended that NARS, under the General Services Administration, was not administering and preserving national documentary records as effectively as possible. At the hearing, the merits of moving NARS out of GSA was discussed by the following witnesses: Gerald P. Carmen, Administrator of the General Services Administration; Barbara Tuchman, noted historian; James Rhoads, Archivist of the United States; Samuel Gammon, Executive Director of the American Historical Association; and Larry J. Hackman, archivist of the state of New York.

National Security Decision Directive 84

The Committee met on September 15, 1983 to consider questions surrounding President Reagan's National Security Directive 84, entitled "Safeguarding National Security Information." This directive called for Federal agencies to establish prepublication review requirements and media contact policies to discourage leaks of classified information, and also empowered Federal agencies to utilize

polygraph tests in investigations of information leaks and to take adverse actions against employees who refused to undergo such tests.

Program Fraud Civil Penalties Act

The Program Fraud Civil Penalties Act of 1983, S. 1566, was introduced by Senator Roth on June 29, 1983. This legislation was intended to provide a mechanism to bring civil penalties against those who make false claims or statements against, or otherwise defraud, the Federal Government. With the current structure, the Justice Department can only prosecute a small portion of the fraud cases which it receives. The Program Fraud Civil Penalties Act would permit the Inspectors General in Federal agencies to file civil suits for fraud losses under $100,000 to be heard by the agency's administrative law judges.

A hearing to consider S. 1566 was held on November 15, 1983. The witnesses included Richard P. Kusserow, Inspector General, Department of Health and Human Services; Paul McGrath, Assistant Attorney General, Civil Division, Department of Justice; Joseph H. Sherick, Inspector General, Department of Defense; Jed L. Babbin, Shipbuilders Council of America; and Wilsie H. Adams, Jr., National Security Industrial Association.

Freedom From Government Competition

S. 1746, the Freedom From Government Competition Act of 1983, was the subject of a Full Committee hearing on April 11, 1984. This hearing was held to examine the issue of competition for goods and services between the Government and the private sector. S. 1746 proposed to identify those goods and services produced by the Government which could be provided by the private sector and determine a schedule for transferring those activities to the private sector.

Testimony was given by Donald Sowle, Administrator, Office of Federal Procurement Policy; James W. Winchester, Associate Administrator, National Oceanic and Atmospheric Administration; and Hugh Witt, United Technologies Corporation.

Cigarette Study Safety Act

The Committee met on May 10, 1984 to consider the proposal to establish a national commission to study and make recommendations on the feasibility of producing fire-safe cigarettes. Among those who testified at this hearing were a number of burn victims injured in cigarette-related fires. Their testimony was greatly in favor of the proposed commission. The hearing also raised the idea of utilizing the National Fire Academy as a resource and test center for the proposed study.

Among the witnesses who testified were Senators John Heinz and Alan Cranston; Andrew McGuire, Burn Council, San Francisco General Hospital; Barbara Thorpe, Wilmington, Delaware; and representatives from the Tobacco Institute, National Fire Protection Association, National Volunteer Fire Council, International Association of Firefighters, Citizens Committee for Fire Protection,

45-649 O - 85 - 2

International Society of Fire Service Instructors, and the International Association of Fire Chiefs.

Foreign Policy

In light of increasing U.S. vulnerability around the world as evidenced by such incidents as the Iranian hostage crisis and the bombing of the Marine barracks in Lebanon, the Committee undertook an examination of the U.S. foreign policy process to assess the effectiveness of coordination among policy makers and probe how to better protect U.S. interests abroad. A series of hearings on the relationship between Congress and the executive branch in the formulation and implementation of foreign policy was initiated in the fall of 1984. The witnesses included former Secretary of State Dean Rusk, former Assistant to the President for National Security Affairs Zbigniew Brzezinski, and representatives for academic and policy organizations.

IX. PRESIDENTIAL NOMINATIONS

During the 98th Congress, the Committee received a total of 34 Presidential nominations. Of these, 25 were favorably reported to the Senate and confirmed. They were:

James B. Hyland, Inspector General, Department of Labor.

Maria L. Johnson, Member of the Merit Systems Protection Board.

John G. Keane, Director of the Bureau of the Census.

Barbara J. Mahone, Member of the Federal Labor Relations Authority.

David H. Martin, Director of the Office of Government Ethics.

John C. Martin, Inspector General, Environmental Protection Agency.

John C. Miller, General Counsel of the Federal Labor Relations Authority.

Robert H. Morris, Deputy Director of the Federal Emergency Management Agency.

Joseph H. Sherick, Inspector General of the Department of Defense.

Mary F. Weiseman, Inspector General of the Small Business Administration.

Governors of the U.S. Postal Service: John R. McKean, Ruth O. Peters, and John L. Ryan.

Associate Judges of the Superior Court of the District of Columbia: Bruce D. Beaudin, A. Franklin Burgess, Stephen F. Eilperin, Susan R. Holmes, Nan R. Huhn, Rufus G. King, III, Colleen Kollar-Kotelly, Noel Anktell Kramer, Robert I. Richter, Judith W. Rogers, Emmet G. Sullivan, and Robert S. Tignor.

X. ACTIVITIES OF THE SUBCOMMITTEES

At the beginning of the 98th Congress, the Committee reorganized its subcommittee structure. One of the original eight subcommittees, Congressional Operations and Oversight, was eliminated,

and the Subcommittee on Federal Expenditures, Research and Rules was renamed "Information Management and Regulatory Affairs."

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Chairman: William V. Roth, Jr.

Vice Chairman: Warren B. Rudman

HISTORICAL BACKGROUND

The Permanent Subcommittee on Investigations was originally authorized by Senate Resolution 189 on January 28, 1948. At that time the subcommittee was part of the Committee on Expenditures in the Executive Departments. In 1952 the parent committee's name was changed to the Committee on Government Operations and in 1977 to the Committee on Governmental Affairs. The subcommittee's records and jurisdiction actually antedate its creation since it was given custody of the files and records and assumed some of the jurisdiction of the old Special Committee to Investigate the National Defense Program (the so-called War Investigating Committee), chaired by Senator Harry S. Truman during World War II.

The subcommittee has had seven Chairmen: Senators Homer Ferguson of Michigan (1948), Clyde R. Hoey of North Carolina (1949–1952), Joseph R. McCarthy of Wisconsin (1953–54), John L. McClellan of Arkansas (1955–72), Henry M. Jackson of Washington (1973–78), Sam Nunn of Georgia (1979–80), and William V. Roth, Jr. of Delaware (1981–present).

Until 1957 the subcommittee's jurisdiction was principally the investigation of waste, inefficiency, impropriety, and illegality in Government operations. It has been expanded considerably since then. In 1957—based on information developed by the subcommittee—the Senate passed a resolution establishing a Select Committee on Improper Activities in the Labor or Management Field chaired also by Senator McClellan. This Committee was composed of eight Senators—four whom were drawn from the Subcommittee on Investigations and four from the Committee on Labor and Public Welfare. The Select Committee was in operation for 3 years sharing office space, personnel and other facilities in common with the Permanent Subcommittee.

Upon the expiration of the Select Committee in early 1960, its jurisdiction and files were transferred to the subcommittee, greatly enlarging the subcommittee's investigative authority in the labor-management area.

The subcommittee's jurisdiction was broadened further during the succeeding years. In 1961 authority was granted for inquiries into syndicated or organized crime. The famous Valachi hearings were held in 1963. In the wake of the riots and civil disturbances that marked the summer of 1967, a resolution was approved directing the subcommittee to investigate the causes and to recommend corrective action. In January 1973, the National Security Subcommittee was merged with Permanent Subcommittee. With this, the subcommittee's jurisdiction was enlarged to include inquiries con-

cerning the adequacy of national security staffing and procedures, relations with international organizations, technology transfer and related matters. Further, in 1974 jurisdictions were conferred to investigate Government operations involving the control and management of energy resources and supplies.

Armed with this broad jurisdictional mandate, the subcommittee has initiated investigations into a wide variety of topics during the past decade. A significant number of these investigations have involved a review of organized crime activities, including labor racketeering, fraudulent union insurance plans, and arson and car theft operations. The subcommittee has also spent considerable time reviewing the issues of narcotics trafficking, Federal drug enforcement and drug abuse.

ACTIVITIES

The subcommittee does not have legislative authority, but its investigations contributed to the development of the following legislative initiatives:

(1) S. 38: The Longshoremen's and Harbor Worker's Compensation Act Amendments of 1983. (By Senator Nickles.) Cosponsors: Senators Nunn, Hatch, Kennedy, Helms, East, Symms, Hawkins, Denton, Warner, Mattingly, and Humphrey.

Based in part on PSI's Waterfront Corruption hearings, the bill reforms the Longshoremen's and Harbor Worker's Compensation Act to remove loopholes which, as the hearings demonstrated encouraged the widespread and costly filing of fraudulent claims under the Act. Originally introduced on January 26, 1983, the measure passed the Senate on June 16, 1983 and passed the House on April 10, 1984. The Act was signed into law on September 28, 1984 (Public Law 98-426).

(2) S. 336: Labor Management Racketeering Act of 1983. (By Senator Nunn.) Cosponsors: Senators Rudman, Chiles, Nickles, Hatch, Roth, Kennedy, DeConcini, Stennis, Johnston, Pryor, Hollings, East, Thurmond and Helms.

This bill provided for an increase in the penalties for violations of the Taft-Hartley Act, to prohibit persons, upon their convictions of certain crimes, from holding offices in or certain positions related to labor organizations and employee benefit plans, and to clarify certain responsibilities of the Department of Labor.

As worded, S. 336 was identical to S. 1875, the Labor Management Racketeering Act of 1982, which was passed by unanimous consent in the Senate on two separate occasions during the 97th Congress. The legislation was a direct result of hearings held by PSI in February 1981, which examined the International Longshoremen's Association and the American shipping industry. S. 336 was adopted by the Senate on June 20, 1983 and referred to the House. In separate action, S. 336 was included in the Comprehensive Crime Bill of 1984, a part of the Continuing Resolution, and approved by both the House and Senate. The Continuing Resolution was signed into law on October 12, 1984.

(3) S. 407: Export Administration Enforcement Act of 1983. (By Senator Nunn.) Cosponsors: Senators Chiles and Mattingly.

Based on testimony given in the subcommittee's April 1982 hearings on the transfer of technology, this legislation, originally introduced on February 2, 1983, is intended to eliminate the requirement that stolen technology must cross the borders prior to criminal penalties being invoked. It also would transfer criminal enforcement to the U.S. Customs Service. Lastly, it would give the Customs Service the statutory right to make arrests and seizures of shipments going out of the country, authority which to date has been inferred by the courts. Many proposals contained in the measure subsequently were incorporated and passed in Senate bill S. 979, the Export Adminstration Act, on March 1, 1984. Although the measure passed the House with amendments on March 8, 1984, Senate-House conferees failed to reach agreements on this legislation.

(4) S. 408: Technology Security Enforcement Act of 1983. (By Senator Nunn.) Cosponsor: Senator Chiles.

This bill amends the RICO statute to include violations of the Export Administration Act and the Arms Export Control Act as predicate offenses. It also amends the electronic surveillance statute to permit court authorized surveillance where there is probable cause to believe there are violations of the above statutes. It also raises the penalties for violations of the Arms Export Control Act to be equal to those imposed by the Export Administration Act. Additionally, it creates a new Federal criminal offense in the area of high technology by making it illegal to steal or to bribe an individual in an attempt to take away said technology for illegal export. Lastly, it clearly states the intention of Congress that nothing in this act or any act of Congress is meant to impede greater military and trade cooperation between the U.S. and its allies. The measure was introduced on February 2, 1983. Several provisions were incorported into S. 979 and passed the Senate on March 1, 1984. S. 979 as amended passed the House on March 8, 1984, but House-Senate conferees could not reach agreement on the bill.

(5) S. 1566: Program Fraud Civil Penalties Act of 1984. (By Senator Roth.) Cosponsors: Senators Cohen, Rudman, Nunn, Levin, Pryor, Chiles, Dixon, Stennis, Armstrong, D'Amato and Zorinsky.

A 1981 survey on fraud in Federal programs concluded that the Federal Government did not have adequate administrative remedies for fraud. The report showed that in many instances the Department of Justice failed to take timely action to prosecute Federal program fraud. In the majority of cases referred to the Justice Department for criminal prosecution, no civil action was filed in order to exact a civil fine and recover Federal funds lost through fraud. More recently, periodic reports from Inspectors General confirm the great number of cases that are declined for prosecution.

S. 1566 would enable each executive agency to investigate, adjudicate and assess a civil monetary penalty for a false claim or statement submitted to the Federal Government. The penalty

mechanism is intended to be be a swift administrative method of penalizing program fraud without time-consuming litigation.

A hearing on this bill was held on November 15, 1983. Both industry and Government witnesses testified on the merits of the legislation. Two mark-up sessions were subsequently held by the Full Committee, but no final action was taken. Senator Roth plans to reintroduce the measure during the 99th Congress.

(6) S. 2090: A bill to clarify the authority of the Office of Inspector General, Department of Labor. (By Senator Hatch.) Cosponsors: Senators Nunn, Rudman, Grassley and Chiles.

Based on testimony given in several of the subcommittee's hearings on organized crime and labor racketeering, this legislation would grant law enforcement authority (power of arrest, search and seizure, and right to carry firearms) to Labor Department agents investigating organized crime and labor racketeering.

The measure was introduced on November 14, 1983, but no further action was taken by the Committee.

(7) S. 2971: Labor Trusteeships and Fiduciary Amendments Act of 1984. (By Senator Roth.) Cosponsor: Senator Rudman.

The Labor-Trusteeships and Fiduciary Amendments Act of 1984 would amend the Labor-Management Reporting and Disclosure Act of 1959 to strengthen the provisions relating to trusteeship requirements and fiduciary responsibilities. This legislation was a direct outgrowth of PSI's 3-year investigation of the Hotel Employees and Restaurant Employees International Union. These amendments would: ensure fair hearings by international unions before local trusteeships are imposed; close a loophole in the law regarding the Department of Labor's authority in officer removal cases; and provide the Department of Labor with civil enforcement authority in cases of fiduciary breaches by union officers.

This legislation was referred to the Senate Committee on Labor and Human Resources on September 11, 1984, but no further action was taken during the 98th Congress.

(8) S. Res. 472.

In the last part of the 98th Congress, Senator Roth introduced a resolution, cosponsored by a bipartisan group of 26 senators, which expressed appreciation to the entertainment industry, especially the Entertainment Industries Council, for its efforts to discourage the use of drugs in the U.S., especially among young people. It also urged the Nation's radio, television, film, theater and record industries to continue to communicate the dangers of drug usage to American citizens. This resolution was unanimously approved by the Senate on October 3, 1984.

SUBCOMMITTEE HEARINGS

Profile of Organized Crime: Mid-Atlantic Region

In early 1983, the Minority staff of the subcommittee began a series of regional reviews of organized crime activities with three days of hearings pertaining to the Mid-Atlantic portion of the country.

Twenty-nine witnesses appeared before the subcommittee to offer testimony on a wide range of organized crime activities, including labor racketeering, narcotics trafficking, gambling, loan sharking, and toxic waste removal. Traditional organized crime families were highlighted, and emphasis was placed on emerging non-traditional groups, particularly motorcycle gangs.

Testimony from law enforcement authorities described the highly organized structure of motorcycle gangs, especially in the Delaware-Pennsylvania area. The gangs' involvement in the trafficking of drugs such as methamphetamine and PCP was described, along with their use of violence, as well as investments in legitimate businesses. Two former members of the "Pagans" gang provided firsthand knowledge of these activities, however, several current members refused to respond to questioning, asserting their privilege against self-incrimination.

A major focus of the inquiry into traditional organized crime families was the status of the Philadelphia mob, which has been engaged in a lengthy and violent dispute over leadership, beginning with the murder of former head Angelo Bruno in 1980. Witnesses explained that a key factor in this dispute is the control of mob activities in Atlantic City, NJ.

Organized Crime in Chicago

On March 4, 1984, PSI held a field hearing in Chicago, Illinois to review the current status of organized crime activities in that city. This focus resulted from Chicago's long-standing reputation as an organized crime stronghold and from the subcommittee's previous work in this area, including the McClellan hearings in the late 1950's. Representatives from the FBI, Department of Labor, and the Chicago Police Department testified at the hearing. FBI Special Agent Edward Hegarty presented an update on key Federal prosecutions of organized crime figures from Chicago.

In addition to testimony offered at the hearing, the Chicago Crime Commission provided a comprehensive historical report on Chicago organized crime activities and figures, including a chart of the mob hierarchy and a list of mob-related murders since the 1920's. Joseph Aiuppa was identified as the current head of the Chicago mob, with Anthony "Big Tuna" Accardo acting in a consulting role. John Cerone was named as Aiuppa's probable successor, and Anthony Spilotro was identified as the mob's overseer in Las Vegas.

Offshore Banks

PSI held hearings on March 15 and 16, and May 24, 1983 on the use of offshore banks and companies. These hearings were a continuation of over 2 years of investigative efforts by the subcommittee in the use of offshore institutions by criminal elements in the United States.

Much of this work was summarized in a staff study published in February 1983 entitled "Staff Study of Crime and Secrecy: The Use of Offshore Banks and Companies" (S. Rept. 98-21). The subcommittee's investigation of this subject was quite broad, although obviously limited by the complexity of the issues involved. Hundreds of senior government officials (both United States and foreign), at-

torneys, "bank brokers," offshore bank owners and users, individuals convicted of crimes involving the use of offshore companies and other knowledgeable parties were interviewed here and abroad with respect to the legal and illegal aspects of offshore facilities.

Among the subjects covered in the hearings were money laundering, the fraudulent use of sham offshore banks, brokering of offshore banks in the United States, the ramifications of various tax haven laws and resulting conflicts with U.S. interests, the legitimate role of offshore banks, problems posed to U.S. enforcement agencies by offshore institutions and steps taken by those agencies to solve those problems. Though the illegal laundering of money runs the spectrum from the "man next door" cheating on his taxes to multi-national fraud, the most highly visible use of this technique is by those who launder the proceeds from illegal narcotics trafficking. The money at stake was clearly demonstrated by Beno Ghitis-Miller, a Colombian money launderer who in 8 months laundered over one-third of a billion dollars ($3.6 million of which was displayed at the hearing.)

The problems posed to U.S. banks, businesses and citizens by sham banks was discussed at the hearing by Bob Serino, Chief of Enforcement of the Comptroller of the Currency's Office. Serino pointed out how sham artists, using banks in Antigua, St. Vincent, Anguilla, Montserrat and South Pacific, manage to get away with millions of dollars by issuing fraudulent or worthless checks, certificates of deposit or other documents issued by shell banks. The ease with which these banks can be formed and the veil of secrecy placed around them was explained by Jerome Schneider of the WFI Corporation, a brokerage firm in Los Angeles, CA. WFI has formed over 120 such banks throughout the world.

The hearings also examined the problems posed by haven secrecy laws to U.S. law enforcement interests. Among the witnesses who testified in this area were representatives of the Justice Department, Internal Revenue Service, Securities and Exchange Commission, Treasury Department, and the Commodity Futures Trading Commission.

The subcommittee hearings paralleled a growing interest in the subject of offshore banks. As a result, legislative recommendations were proposed, several of which were incorporated into and passed as part of the overall crime bill in 1984.

Hotel Employees and Restaurant Employees International Union

In 1983, PSI held 6 days of public hearings reviewing HEREIU, which brought the 2-year total of hearings days devoted to this union to 11.

In April 1983 the subcommittee held 2 days of hearings, receiving testimony from Joseph Hauser, a convicted insurance dealer who has since entered the Federal Witness Protection Program and has assisted the FBI in its investigation of organized crime. Hauser related his direct and indirect knowledge of HEREIU officials' contacts with organized crime figures and payments made in connection with union health and welfare plans. Hauser testified that HEREIU president Edward T. Hanley was chosen by organized crime figures Tony Accardo and Joseph Aiuppa, and that Hanley wished to establish a massive pension fund similar to the Central

States Teamsters Fund. Hauser also made allegations concerning Herman Leavitt, a longtime HEREIU official in Los Angeles who is currently General Secretary-Treasurer of the International Union. Leavitt testified before the subcommittee and denied all of the allegations made by Hauser and other witnesses. (Ail other ranking officers of the HEREIU invoked their Fifth Amendment right against self-incrimination when called before the subcommittee.)

In September, PSI focused on two HEREIU dental plans in Las Vegas (Local 226) and Atlantic City (Local 54). The subcommittee found overly excessive payments to these plans, and in the case of local 54, allegations of kickbacks to organized crime members in Philadelphia.

On November 17, 1983 and again on June 21, 1984, Anthony "Big Tuna" Accardo, alleged head of the Chicago mob for many years, appeared before PSI under a grant of immunity. Accardo's 1983 appearance, orginally scheduled for September and delayed for medical reasons, was marked by an objection before and during the hearing regarding the use of illegal electronic surveillance activities. However, the witness did respond to selected questions and, at both of his appearances before the subcommittee, denied any involvement with either Hanley or the HEREIU.

On May 15, 1984, HEREIU President Edward Hanley appeared before the subcommittee to answer questions concerning allegations of union mismanagement and corruption as well as his alleged ties to organized crime. Evidence obtained by the subcommittee indicated that Hanley had attempted to merge local benefit funds into the International funds to gain control of vast sums of money, padded the union's payroll with friends, relatives and organized crime associates since becoming president in 1973, and had become president through his ties to Chicago organized crime interests. In response to questioning, Hanley invoked his Fifth Amendment privileges.

The 3-year PSI investigation of HEREIU concluded with the release of a subcommittee report in August 1984.

Navy Shipbuilding Procurement

On May 3 and 4, 1983, PSI culminated an 8-month investigation of fraud and mismanagement in Navy ship construction contracts with hearings concerning Litton Industries' Ingalls Shipyard in Pascagoula, Mississippi. These hearings complemented the work of the Full Committee which conducted investigations of Department of Defense procurement policies and the effectiveness of DoD audit procedures.

The subcommittee presented evidence of systematic mischarging of labor hours to Navy contracts by company supervisory personnel for work actually performed on the construction of commercial oil rigs. In addition, supervisors were found to be shifting employee time charges from one Navy contract to another without regard to where the work was actually performed. The staff found that despite a formal company policy prohibiting such practices, thousands of hours were shifted by supervisors under pressure to meet schedule and budget requirements. As a result of PSI's investigation, numerous specific allegations were referred to the Department of Defense Inspector General for review and action.

A critical review of Navy contracting and Defense Contract Audit Agency practices indicated a lack of meaningful oversight of the contractor's timekeeping system and understaffed, sometimes undertrained, Navy investigative staff to uncover and resolve allegations of fraud. On PSI's recommendation, the Navy reviewed its investigative function at the shipyard and assigned an additional agent, trained in fraud matters, to the facility.

The Navy was also found to have wasted funds on the outfitting of ships with expensive, custom-made furnishings and accessories. Most of the luxury items were intended for use in various staterooms and officers' wardrooms. As a result of PSI's investigation, the Navy took disciplinary action against specific individuals and strengthened its policies and procedures to prevent similar purchases in the future.

Profile of Organized Crime: Great Lakes of Region

In January and February 1984, PSI held hearings on organized crime in the Great Lakes Region as part of a continuing effort to evaluate the progress the law enforcement community has made in combatting organized crime across the United States. The hearings followed a Minority staff investigation, directed by Senator Nunn, the Ranking Minority Member of the subcommittee, which was conducted with the cooperation and concurrence of Chairman Roth and the Majority staff.

During the course of the hearings, PSI heard testimony from Federal, State, and local law enforcement officials regarding the structure of organized crime in their areas. Their testimony underscored the diversity of organized crime groups, ranging from the traditional La Cosa Nostra families of Cleveland, Ohio to an abundance of emerging criminal groups in Detroit, Michigan.

The subcommittee also examined the relative success of law enforcement efforts, particularly the Department of Justice Crime Strike Forces, against organized criminal activities of traditional crime families such as La Cosa Nostra in large metropolitan areas such as Cleveland. However, the investigation suggested a general failure in targeting the emerging non-traditional crime groups as well as traditional activity in smaller, less populous areas. In comparison to strike force success in Cleveland, a strong La Cosa Nostra family remained firmly entrenched and largely ignored in nearby Youngstown, Ohio. In Detroit, an aging and mostly non-violent La Cosa Nostra family had been the target of strike force efforts, while new groups grew in strength and influence.

In its final report on the hearings, PSI called for a comprehensive review of the Federal organized crime strike force program by the Department of Justice.

Commodity Investment Fraud II

In 1981, the subcommittee commenced its initial investigation into commodity investment fraud, which culminated in 3 days of public hearings and the issuance of a report. The collapse of several large precious metals firms triggered a new investigation in October 1983 and additional hearings in 1984.

On March 19 and 21, 1984, PSI held hearings designed to determine what factors, if any, existed within the Federal regulatory

scheme which might be contributing to the continuing victimization of commodities investors across the country. The hearings examined the reasons for the collapse of several large companies which sold precious metals of the public, and sought to determine what role Federal and State regulatory and law enforcement agencies should play in preventing problems of this kind.

As a result of these actions, PSI discovered that, with respect to precious metals sales, the failure of the "customer safety net" resulted, in part, from the refusal of Federal regulatory agencies to assume jurisdiction, from the lack of adequate State regulatory legislation, and from problems of manpower and conflicts in priorities between the Federal and State authorities. Testimony indicated the necessity for criminal prosecution and stiffer sentencing of the principals and salesmen involved in fraudulent sales. PSI concluded that while further Federal legislative action might be advisable in the future, the best solution to the problem was through cooperative enforcement efforts between Federal and State authorities. Following that hearing, a number of civil and criminal actions were filed as a result of increased Federal and State cooperation.

Transfer of Technology

As a followup to issues first raised in its April 1982 hearing, PSI held 4 days of hearings in April 1984 on the transfer of American high technology to the Soviet Union and Soviet Bloc nations. The hearings were based on a Minority staff investigation under the direction of Senator Nunn in conjunction with the Majority staff and Chairman Roth.

As in the earlier hearings, the subcommittee examined the continuing massive and well-planned effort to obtain, both by legal and illegal means, the products of America's high technology sector. Within that framework, the hearings focused primarily on two issues: the criminal enforcement of U.S. export laws and the ability of the United States to successfully negotiate adequate international controls through the Coordinating Committee (COCOM).

On the question of enforcement, PSI heard from both the U.S. Customs Service and the Department of Commerce, who share responsibility for criminal enforcement of export laws. In 1984, the subcommittee found that an unnecessary and unproductive rivalry and a serious lack of cooperation still existed between these two factions. Those problems inevitably undercut the effective enforcement of export laws. In its report, PSI recommended ending this dual grant of responsibility, assigning all criminal enforcement duties to Customs, and leaving licensing functions to the Commerce Department.

The hearings also examined COCOM negotiations in which the United States, NATO nations and Japan adopt mutually acceptable export controls for sales to the Soviet Union and Soviet Bloc. The U.S. position at these negotiations is formulated through joint efforts by the Departments of State, Commerce, and Defense. Hearing testimony focused on disputes between those agencies which had seriously hindered the successful revision of COCOM's 10-year-old computer agreement and ways which those disputes could be avoided in the future. The subcommittee recommended increased

cooperation between the agencies in subsequent negotiations, and this was realized when COCOM reached agreement on a revised computer list in July 1984.

Prevention of Drug Abuse Among Youth

In the past, PSI has investigated and recommended legislative remedies in the areas of international drug trafficking.

On June 26, 1984, PSI conducted a hearing on the prevention of drug abuse among adolescents. The hearing explored the role of parents, entertainers, educators and business leaders in combatting the use of drugs and alcohol by young people.

At the hearing, special emphasis was given to the role of television and recording industry figures as role models for American youth. Following the hearing, Senator Roth introduced a resolution commending efforts by members of the entertainment community to discourage the use of drugs, and urging the entertainment industry to launch a comprehensive program directed at this issue.

Illegal Use of Video Gambling Machines

Throughout 1983 and 1984, the subcommittee received information that illegal video gambling was spreading rapidly across the United States. This type of gambling (a successor to pinball and slot machines) is a recent outgrowth of video and electronics technology that uses video amusement machines, such as Pacman, to produce millions of dollars in revenue for bars, taverns, and private clubs.

On October 1, 1984, PSI held a hearing to explore this subject. The subcommittee's concern was the illegal use of these machines, as opposed to the machines themselves. This distinction is important because video poker machines only become illegal when actual cash payoffs are made to winning players. However, testimony presented at the hearing indicated that many of the machines are produced solely for gambling purposes. Therefore, many States have outlawed all such video machines, and confiscated them from operating establishments and manufacturing plants.

The widespread use of video gambling machines also creates enormous potential for corruption. Some police officers and other officials are bribed by distributors and operators to look the other way on this illegal activity. One such example was in Philadelphia, where a number of high-ranking officials of the city's police force were convicted in 1984 of accepting such bribes.

Child Pornography and Pedophile Organizations

On November 29 and 30, 1984, PSI held hearings on child pornography and pedophilia, specifically examining the production and distribution of child pornography and connections with pedophile organizations. Testimony was received concerning the proliferation of pornographic materials involving children, both within the United States and abroad. Federal and local law enforement officers testified on some investigative methods used to target individuals involved in these illegal activities, as well as potential child molesters. These witnesses emphasized that, while stronger legislative measures are important, the most pressing need in combatting

these activities is the increased number of formalized task forces and training seminars for law enforcement authorities.

Chairman Roth noted that the sexual exploitation of children is one of the most "underground" criminal activities investigated by the subcommittee. He also noted that much tougher, widespread efforts must be undertaken to combat this problem. The subcommittee plans to continue its investigations in this area during the 99th Congress.

REPORTS, PRINTS, AND STUDIES

Federal Identification Fraud (May 1983).

Waterfront Corruption (March 27, 1984).

Profile of Organized Crime: Mid-Atlantic Region (July 17, 1984).

Hotel Employees and Restaurant Employees International Union (August 27, 1984).

Profile of Organized Crime: Great Lakes Region (October 3, 1984).

Transfer of Technology (October 5, 1984).

Staff Study of Crime and Secrecy: The Use of Offshore Banks and Companies (February 1983).

Federal Computer Security: An Analysis of Congressional Initiatives and Executive Branch Responsibilities (November 1983).

LEGAL DEVELOPMENTS

During the 98th Congress, the subcommittee's authority regarding the production of testimony was again tested. Anthony Accardo, reportedly the former head of organized crime activities in Chicago, was subpoenaed to appear before the subcommittee during its investigation of the Hotel Employees and Restaurant Employees International Union. Accardo objected to his appearance and testimony alleging that PSI planned to ask questions derived from illegal electronic surveillance (allegedly conducted by the Justice Department and other Federal agencies). PSI, and eventually the full Senate, through S. Res. 293, directed the Senate Legal Counsel to initiate civil contempt proceedings against Accardo. During the course of these proceedings, the U.S. District Court for the District of Columbia ruled that certain provisions of Title II of the Omnibus Crime Control and Safe Streets Act of 1968, pertaining to illegal electronic surveillance, did not apply to Congressional investigations (see 18 U.S.C. 2515).

SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY AND THE DISTRICT OF COLUMBIA

Chairman: Charles McC. Mathias, Jr.

Ranking Minority Member: Thomas F. Eagleton

HISTORICAL BACKGROUND

The Subcommittee on Governmental Efficiency and the District of Columbia was created as successor to the Committee on the District of Columbia, following the Senate committee reorganization at the beginning of the 95th Congress. The subcommittee is the Senate's principal representative in carrying out the charge to the

Congress in Article I, Section 8, Clause 17, of the Constitution "to exercise exclusive Legislation in all cases whatsoever" over the District of Columbia, the place selected by Congress as the seat of government.

Other oversight functions of the subcommittee are derived from paragraph k(2)(B) of Rule XXV of the Standing Rules of the Senate providing for the study of the efficiency, economy and effectiveness of agencies, departments, and programs of the Government.

Congressional enactment, in 1973, of the District of Columbia Home Rule Act has led to the gradual withdrawal of the subcommittee from the details of managing the D.C. municipal government except where the Act reserved legislative jurisdiction to the Congress. The Home Rule Act requires that all Acts passed by the City Council of the District and signed by the Mayor be the subject of a Congressional review process. The criteria for subcommittee review of D.C. legislation are generally a conflict with the Federal interest, the constitutionality of the act and whether the act is within the powers granted to the City under the Home Rule Act.

The administration's policy of detecting and curbing waste, fraud, and abuse in the Federal Government continues to be the theme of the subcommittee's activities as it has pursued several areas of investigation with the aid of the General Accounting Office.

ACTIVITIES—DISTRICT OF COLUMBIA

The subcommittee's approach to various issues regarding the District has emphasized that the principal responsibility for the development and execution of municipal policies and programs rests with the local government. In essence, this means a minimum of involvement by the Congress, except where the Federal interest warrants.

The subcommittee maintains an acute awareness of the desire of the Congress, as expressed in Public Law 93-198, the District of Columbia Self-Government and Governmental Reorganization Act (Home Rule Act) to cooperate and work with elected, appointed and other officials of the municipal government to assure maximum autonomy and success of Home Rule in the Nation's capital.

During the 98th Congress, 174 Council Acts were transmitted to Congress for a 30-day legislative review. In addition, three voter initiative measures and two Council Resolutions were transmitted. These Council/voter actions ranged from alley closings and bridge designations to changes in the city's unemployment compensation statute and a requirement for minimum sentences for crimes involving a handgun. Each of these Acts was reviewed by the subcommittee staff to ensure that it was constitutional; that it came within the jurisdiction of the city government, as defined by the Home Rule Act; and that it in no way infringed on the Federal interests inherent in the District of Columbia.

On June 23, 1983, the Supreme Court rendered a decision which seriously threatened the authority granted to the city in the Home Rule Act. The Court's decision in *Immigration and Naturalization Service* v. *Chadha,* 193 S. Ct. 2764, held unconstitutional a legislative veto provision of the Immigration and Nationality Act. The

Court concluded that article I, section 7 of the U.S. Constitution which requires that bills be passed by both houses of Congress and presented to the President for signature, "represents the framers' decision that the legislative power of the Federal Government be exercised in accord with a single, finely wrought and exhaustively considered, procedure."

The Home Rule Act contained three Congressional veto provisions, and the District of Columbia Retirement Reform Act contained one Congressional veto provision. In response, legislation was introduced to correct these four legislative veto provisions, bringing them into compliance with the requirements that the Supreme Court laid down in *INS* v. *Chadha*.

This legislation consumed many hours of subcommittee time. Two hearings were held (September 28, 1983 and April 25, 1984) and numerous meetings and negotiation sessions were called. In the end, it took nearly 18 months to get all parties concerned to agree to the simple technical solution that was enacted as part of the 1985 Continuing Resolution (Public Law 98-473).

The cloud which the *INS* v. *Chadha* decision placed over the grant of home rule to the city was the impetus for the Congress being asked to act on two pieces of legislation which would ordinarily be considered within the home rule authority of the City. These legislative actions, both which became public law, transferred a property tax exemption from the old to the new Jewish War Veterans U.S.A. National Memorial (Public Law 98-486) and amended the Federal Charter initially granted to Group Hospitalization Inc. to allow a name change to Blue Cross and Blue Shield of the National Capital Area. The uncertainty surrounding the Home Rule Act caused by *INS* v. *Chadha* and a subsequent *Chadha* correction bill led the subcommittee to agree to Federal action on these matters.

Finances

One of the most critical measures of success of home rule is the rapid movement of the city toward fiscal autonomy from the Federal Government and the recognition of the city's financial strength and independence by the private investment and financial community.

During the 98th Congress, several actions were taken with respect to the city's finances. First, the Home Rule Act permanently authorized the payment made by the Federal Government to the District (known as the Federal Payment) in lieu of property taxes and in payment for various unreimbursed services to the Federal Government. In both fiscal years 1984 and 1985, the amount authorized by the Home Rule Act was increased pursuant to the request contained in the President's budget. (Public Law 98-65 and Public Law 98-316).

In addition to the annual Federal payment, the Mayor of the District is authorized by the Home Rule Act to accept long-term loans to held finance capital improvement projects. This authorization has always been temporary, to be in effect only until the city was in a position to enter the municipal bond market to finance these projects. Public Law 98-315 (signed June 12, 1984) extended this

authorization through fiscal year 1984. Thereafter the city was able to enter the bond market.

The strong interest of the Congress in the continued growth and enhancement of the city's financial well-being and stability has been marked by the involvement of the Congress in the city's pension program. In 1979, the Congress enacted the District of Columbia Retirement Reform Act (Public Law 96–122).

At the time of its enactment, this law, which covers only D.C. police, firefighters, teachers and judges, was the source of a major problem with the police and fire departments regarding numbers of disability retirees. Given the fact that such retirements can be a severe financial drain on a retirement system, Congress took steps to ensure that remedial actions would be taken by the city. The Retirement Reform Act included a "trigger mechanism" which would reduce the federal financial contribution for excess costs in the disability retirement segment. "Excess costs" were to be determined by a complex actuarial formula.

After several years under the new law, the District police and fire departments made significant improvements in their disability retirement systems. In absolute numbers, it was clear that the problems inherent in the earlier system were solved. However, because of the complexities of the trigger mechanism and the manner in which it was applied, it would have been applicable to the 1983 Federal contribution to the system. As a result, legislation to rewrite the trigger to fit the specifics of this problem was introduced. S. 1625 eventually became law (Public Law 98–104). In the future, the Federal contribution will only be triggered if disability retirement costs exceeded reasonable limitations.

District of Columbia Courts

Pursuant to the Home Rule Act, the Senate must advise and consent to the President's nominations to the District of Columbia Superior Court and Court of Appeals.

While these nominations are the jurisdiction of the Full Committee, the subcommittee has taken the lead in processing them through the Committee. Pursuant to Committee rules, each nominee is required to complete a detailed biographical and qualifying questionnaire. Each nominee is personally interviewed by the subcommittee staff, who then prepare a detailed confidential report to the Committee members. A hearing is then held on the nomination, followed by Full Committee action.

During the 98th Congress, the subcommittee considered the following nominations:

D.C. Superior Court—Bruce D. Beaudin, A. Franklin Burges, Jr., Stephen F. Eilperin, Susan R. Holmes, Nan R. Huhn, Rufus G. King III, Colleen Kollar-Kotelly, Noel Anketell Kramer, Robert I. Richter, Emmet G. Sullivan, Robert S. Tignor.

Court of Appeals—Andrew L. Frey, Judith W. Rogers.

National Capital Planning Commission

The chairman of the subcommittee, through his alternate, serves in an ex-officio capacity on this 12-member independent agency, which is responsible for the location and size of public buildings in

the National Capital Region. The other ex-officio members of the NCPC are the Chairman of the House Committee on the District of Columbia, the Secretary of Defense, the Director of the National Park Service, the Administrator of the General Services Administration, the Mayor of the District, and the Chairman of the City Council. Each ex-officio member is represented by an alternate. In addition, the Commission contains three Presidential appointees and two appointees by the Mayor. The Chairman is appointed by the President. Appointed members serve 6-year staggered terms. The Commission meets once a month, usually in a day-long session.

The organic act of the NCPC, the Planning Act of 1952, as amended by the D.C. Home Rule Act in 1973, charges the Commission with three functions:

(1) Comprehensive planning to ensure the orderly development of the National Capital and the preservation of its natural and historical features;

(2) Review and approval of master plans and site and building plans for Federal facilities in the National Capital Region; and

(3) Compilation, review and approval of multi-year proposed Federal capital improvements.

In its 30-year history, the NCPC had never adopted a complete comprehensive plan. Since 1980, at the urging of the subcommittee chairman's representative, the Commission embarked on a work program to prepare and adopt such a comprehensive plan.

At its December 1984 meeting, the Commission adopted the eighth and final Federal element of the comprehensive plan. The NCPC now has adopted policies in a variety of areas to guide its decisionmaking on Federal and non-Federal projects which it considers. The eight elements of the comprehensive plan are:

Federal goals for the National Capital.
Federal employment.
Federal facilities.
Federal preservation and historic features (jointly prepared in cooperation with the D.C. government and adopted by NCPC and the D.C. City Council).
Parks, open space, and natural features.
Foreign missions and international organizations.
Visitors to the National Capital.

At the same time the NCPC was preparing the Federal segments of its comprehensive plan, the District government was preparing its segments of the plan with respect to municipal interests. The City Council adopted 11 local elements to the comprehensive plan which are as follows:

General provisions.
Economic development.
Housing.
Environmental protection.
Transportation.
Public facilities.
Urban design.
Preservation and historic features (a joint element with NCPC).
Downtown plan.

Human services.
Land use.

Together these Federal and local elements form the comprehensive plan for the Nation's capital as mandated in the Home Rule Act. While any comprehensive plan is long-range (20 year) policy, it serves as a statement to guide public and private decisions for orderly growth in the District.

The next phase of the public planning process is short-term planning. The NCPC is initiating a review of Federal master plans to ensure that they are up-to-date, reflect current policy, and are consistent with the comprehensive plan. The Commission is also in the process of identifying Federal facilities which lack a master plan, and guiding agencies in developing such plans.

The D.C. government is now entering a new phase of its near-term planning program by developing ward plans for each of the City's eight wards. These plans will state specifically where existing and proposed land uses are or will be located.

St. Elizabeths Hospital

While not within the jurisdiction of the subcommittee, St. Elizabeths Hospital, a Federal facility, plays an important role in the District of Columbia health system. During the 98th Congress it became apparent that the longstanding Federal goal to transfer the hospital from Federal jurisdiction to the District government was reachable.

In December 1983, the subcommittee held hearings which established the groundwork for review of the issues involved in such a turnover. The subcommittee remained involved in all negotiations leading to the enactment of the St. Elizabeths Hospital and District of Columbia Mental Health Services Act (Public Law 98-621). Under the provisions of the Act, the functions of St. Elizabeths Hospital are to be absorbing by the city as part of a comprehensive mental health system. The Act also requires a Congressional review of the city's proposed plans for the transfer. Currently, the subcommittee staff is meeting on a monthly basis with city officials to review the progress of the transfer plan.

Foreign Missions Act of 1982

The subcommittee continues to monitor progress in implementing this legislation regarding diplomatic reciprocity, particularly with respect to its impact on land use, planning and zoning within the District.

More than 145 countries maintain diplomatic offices in the District of Columbia. An estimated 8,000 diplomatic personnel are employed by those foreign missions. The demand for office space, staff housing and diplomatic residences in prestige locations require cooperation between the host U.S. Government and the District government. The Foreign Missions Act of 1982 (Public Law 98-241) sought to clarify those rights and responsibilities among governments. It also proposed a change in the composition of the D.C. Board of Zoning Adjustment and the nature of its procedures when hearing land use applications by foreign missions. This legislation also preempts other local governments with respect to certain regulatory functions (e.g. parking and driving permits and licenses,

motor vehicle registration, land use and zoning, building, housing and fire safety codes) affecting members of foreign missions. The law specified where in the District foreign missions were permitted to locate their offices (chanceries).

The subcommittee was instrumental in requiring annual reports from the parties affected by this law to aid in Congressional monitoring of the Act. To date, reports have been received from the Department of State, the D.C. government and the NCPC.

Through ex-officio membership on the NCPC, the chairman of the subcommittee has participated in the revision of the city's comprehensive plan to comport with the Foreign Missions Act. In addition, the NCPC has undertaken, in cooperation with the D.C. government and the State Department, a manual for foreign missions to guide them through the governmental approvals necessary to locate, relocate or expand chancery space.

Washington Metropolitan Transit Authority

The subcommittee maintains a continuing interest in the construction of the rapid rail system in the National Capital Region. In the 98th Congress, Public Law 98-340 was enacted to facilitate construction of the "Green" Line and the Anacostia Metrorail Station.

The Green Line legislation provided for a land swap between the U.S. Botanic Garden and the District government. The Botanic Garden tree and plant nursery was located on the proposed site of the Anacostia Metro station. To save relocation costs on the 25 acre site, the D.C. government identified a suitable relocation site on City-owned land at D.C. Village in southwest Washington. The law provides that the Metro Transit Authority has access rights to the Botanic Garden site prior to relocation and that any residual portion of the site not needed for Metrorail purposes be transferred to the National Park Service, which owns and operates the Anacostia Park surrounding the site.

The subcommittee maintained close contact with all parties affected by this legislation, including the District of Columbia government, the Washington Metropolitan Transit Authority, the Architect of the Capitol (as acting director of the Botanic Gardens), the Federal Highway Administration and the National Park Service. In clearing the measure for Senate passage, the subcommittee consulted with the Joint Committee on the Library and the Environment and Public Works Committee. H.R. 5565 passed the Senate on June 21, 1984.

ACTIVITIES—GOVERNMENT EFFICIENCY

Federal Travel Management Improvement

Prior to the 98th Congress, the subcommittee raised the problem of unrefunded, unused or down-graded Government Travel Requests (GTRs). The subcommittee learned that Federal employees returned tickets to the airlines when their travel plans were changed, but the airlines were not required to refund the ticket price to the agency. The responsibility for obtaining the refund fell to the General Services Administration. In light of this situation,

the subcommittee raised the issue with the GSA and also requested an investigation by the GAO.

The GAO issued a letter report on this topic in December 1981. As a followup to the GAO report, a new Federal employee travel system was introduced by the General Services Administration. The purpose of the program is to reduce the paperwork and bookkeeping costs associated with Government travel. GSA processes travel requests for 15 million trips each year, costing approximately $4 to 5 billion each year. GSA estimated that this program will save $200 million per year by fiscal year 1987. To date, $19 million has been recovered for unused and down-graded tickets. The GSA also issued new guidelines in October 1982 requiring the airlines to refund the price of down-graded and unused tickets directly to the GSA.

HEARINGS

Chesapeake Bay Cleanup

The subcommittee, in its continued oversight of Federal environmental activities affecting the Washington region, held a hearing on Chesapeake Bay management and cleanup activities on March 1, 1983 (S. Rept. 98-127). Witnesses included representatives of the Environmental Protection Agency and the Chesapeake Bay Foundation.

The EPA Chesapeake Bay Program, a 7-year research effort to identify the sources of bay pollution, is now in its implementation phase, in cooperation with the states of Maryland, Virginia, Pennsylvania, and the District of Columbia. In addition, several Federal agencies have entered into cooperative agreements to clean up the bay, notably, the Department of Defense, Soil Conservation Service, National Geologic Survey, Fish and Wildlife Service and the National Oceanic and Atmospheric Administration (NOAA).

The Chesapeake Bay cleanup program has proven to be a national demonstration of broad intergovernmental cooperation in addressing an interstate watershed problem.

Emergency Preparedness

During the 98th Congress, the subcommittee held a series of hearings to examine the state of emergency preparedness in the Washington Metropolitan Area (March 16 and May 18, 1983). The focus of these hearings was the need for regional cooperation and coordination in emergency situations.

As noted during the hearings, the twin disasters of January 13, 1982—the crash of Air Florida Flight #90 and the derailment of a Metrorail train—tragically underscored the need for regional cooperation between both government and private sector emergency organizations. The subcommittee called elected officials, public safety officials and emergency preparedness experts from the Washington area to assess the effectiveness of current emergency policies and suggest improvements in cooperation efforts.

The hearings clearly illustrated that the level of preparedness has been increased since the January 1982 incidents, and that the region's efforts are ongoing to make greater improvements. The

subcommittee plans to continue its oversight in the state of preparedness in the Washington area.

Subcommittee on Energy, Nuclear Proliferation, and Government Processes

Chairman: Charles H. Percy

Ranking Minority Member: John Glenn

HISTORICAL BACKGROUND

When the Governmental Affairs Committee was organized at the beginning of the 97th Congress, jurisdiction over matters related to postal services was transferred to the Subcommittee on Civil Service, Post Office, and General Services. The Energy Subcommittee retained jurisdiction over organization and management issues related to scientific and technical matters and Federal energy functions; organization and management of U.S. programs to prevent nuclear proliferation; government planning and research; census, collection of statistics and analysis of statistical surveys and data; Federal advisory committees; oversight of preparation and submission of Federal regulatory budgets to Congress; oversight of Federal agency performance and effectiveness; collection and dissemination of data by Federal regulatory agencies: development and effectiveness of fiscal, budgetary and program information systems and controls; and development and improvement of management capability and efficiency.

Throughout the 98th Congress, the subcommittee focused on three major aspects of its jurisdiction—organization and management of Federal energy programs, U.S. nuclear nonproliferation policy and programs, and government processes in general. Oversight hearings and staff investigation led to development of legislative proposals, some of which were referred to the Subcommittee for action.

OVERSIGHT ACTIVITIES

Energy Management

The need for oversight management of the energy agencies continued in the 98th Congress due to rapid increases in natural gas prices, a shifting Federal role in the energy marketplace, and declining Federal energy budgets. The subcommittee turned its attention to addressing high-cost imports in the nautural gas marketplace and ensuring that the Department of Energy continued to implement a balanced national energy agenda. Some of the policy issues addressed by the subcommittee were the inflationary impact of imports on the natural gas consumer, the filling of the Strategic Petroleum Reserve (SPR), the Federal emphasis on conservation and renewable energy, and energy security.

A. Natural Gas Imports

Beginning in early 1983, the subcommittee began oversight of Government management of natural gas imports. Chairman Percy introduced a resolution calling for the renegotiation of natural gas

imports prices with Canada, Algeria and Mexico. On February 28, the subcommittee held a hearing to review natural gas suppliers who were purchasing overpriced Algerian liquified natural gas (LNG) and Canadian gas for distribution in the Midwest. At this hearing, the subcommittee requested representatives of the Federal Energy Regulatory Commission (FERC) and the Economic Regulatory Commission (ERC) to reassess a decision allowing pipelines to pass the cost of Algerian liquified natural gas on to consumers at above-market prices. FERC agreed to postpone the cost-pass decision. At another hearing on July 23, 1983, the subcommittee again focused on the need to move toward a market-oriented pricing policy for natural gas imports from Canada, Algeria, and Mexico. Subsequently, Canada lowered its prices, and a major domestic pipeline halted its imports of Algerian gas.

B. Department of Energy

On June 17, 1983, the subcommittee held a hearing to examine the management of the Department of Energy. Testifying at that hearing were then-Secretary of Energy Donald Hodel and Martha Hesse, Assistant Secretary of Energy for Management and Administration. The Department's programmatic emphasis on conservation and renewable sources of energy was discussed in light of reductions in budget and personnel in the Department. Chairman Percy emphasized the need for finding appropriate technologies for utilizing the Nation's abundant high-sulfur coal without the attendant environmental impact.

The subcommittee also probed the capability of the U.S. Strategic Petroleum Reserve to respond rapidly to an energy crisis in a followup hearing on January 24, 1984 which examined Department of Energy programs and the issue of energy security. Secretary Hodel also testified at this hearing, and he stressed the Department's continuing commitment to developing both renewable resources and conventional energy sources. Empirical evidence of the improvements in conservation was also presented. In the area of energy security, current statistics showed that the United States is less reliant on OPEC oil imports than it was in the late 1970's. The Department outlined its progress in filling the Strategic Petroleum Reserve, and pledged to protect the Reserves' facilities from terrorists threats and accidents.

Nuclear Proliferation

Nuclear proliferation—the acquisition by non-nuclear states of the capability to construct nuclear arms—remained an issue of paramount concern to the subcommittee in the 98th Congress. The subcommittee monitored trade developments in this area, particularly as they related to the enforcement of the Nuclear Non-Proliferation Act and the Atomic Energy Act, both of which place limits on the export of sensitive nuclear materials, technology and equipment.

On June 27, 1984, Senator Percy and Senator Glenn initiated a hearing on the report on nuclear proliferation submitted by the United States Association of the U.S.A. This report provided recommendations designed to improve U.S. and international non-proliferation policies.

Recent concern over the problem of increasing use and manufacture of chemical and biological weapons spurred the subcommittee, in cooperation with the Senate Foreign Relations Committee, to investigate the need for tighter export controls on chemical materials and technology with potential military applications. The subcommittee held a hearing on June 28, 1984 to discuss a potential chemical weapons treaty for submission to the Joint Conference on Disarmament in Geneva, Switzerland.

Several other items occupied the subcommittee's oversight agenda during the 98th Congress, including the review of funding for the International Atomic Energy Agency, developments relating to a potential agreement on nuclear trade between the United States and the Peoples' Republic of China, and proposed non-proliferation amendments to the Export Administration Act. Finally, the subcommittee explored questions concerning the need to limit foreign assistance to those countries suspected of developing nuclear weapons.

Government Processes

In view of the increasing urgency to reduce the staggering burden of the Federal deficit, the subcommittee devoted a large part of its agenda in the 98th Congress to developing more cost-efficient and businesslike processes for the Federal Government.

A. Debt Collection Act

As a followup to the enactment of the Debt Collection Act of 1982, the subcommittee held an oversight hearing on May 25, 1983 to discuss implementation of this legislation. Officials from the Office of Management and Budget and other agencies outlined substantial progress in collecting delinquent Federal loans under the Act's new procedures. However, stronger measures in this area were advocated by Senator Percy and Senator D'Amato.

B. Federal Debt Recovery Act

On July 21, 1983, the subcommittee held a hearing on the Federal Debt Recovery Act, S. 1356, which was introduced by Senator D'Amato and Senator Percy. This bill attempted to authorize contract services with private law firms to collect debts owed to the Federal Government. At the hearing, the Justice Department testified that this arrangement would reduce the Department's case backlog and supplement its resources for collecting the outstanding debts.

C. Collection of Criminal-Fines

The collection of criminal fines was the subject of a subcommittee hearing on August 3, 1983. Statistics released by the Justice Department showed that, for all 94 Federal districts, a total of $132 million in criminal fines was outstanding on 22,000 cases. Following the hearing, the subcommittee issued a report (S. Rept. 98–182) making recommendations to clarify and improve legal and administrative procedures for collecting criminal fines. On October 19, 1983, Chairman Percy introduced S. 1976, the Criminal Fine Enforcement Act, which was based on the subcommittee's recommendations.

D. Delinquent Student Loans

Investigations into delinquent student loans in the health care professions prompted a subcommittee hearing on the National Health Service Corps scholarship program on April 12, 1984. Under the program, medical students receive Federal grants in exchange for locating their practices in a medical service shortage area upon graduation. The subcommittee found that many doctors who refused to locate in shortage areas were not properly reimbursing the government for these grants. Suggestions for dealing with this problem were discussed at the hearing by representatives of the Department of Health and Human Services.

HEARINGS

Energy

(a) Government Management of Natural Gas Import Issues.
(b) Management of the Department of Energy.
(c) Management of Department of Energy Programs and Energy Security.

Nuclear Proliferation

(a) United Nations Association Report on Nuclear Proliferation.
(b) Chemical and Biological Weapons Proliferation.*

Government Processes

(a) Oversight of Federal Debt Collection.
(b) Federal Debt Recovery Act.
(c) U.S. Machine Tool Industry: Its Relation to National Security (field hearing in Rockford, IL).*
(d) Oversight of the General Accounting Office.
(e) Census Bureau's Report on Federal Expenditures.
(f) National Health Corps Scholarship Program.
(g) Enforcement of Federal Regulations and Penalties for Hazardous Shipments.
(h) Collection of Criminal Fines.

The subcommittee maintained diligent oversight in the areas of its jurisdiction during the 98th Congress. It pursued a variety of legislative initiatives as a result of its hearings, investigations and regulatory ovesight activities.

In the 99th Congress, the subcommittee will continue its efforts to oversee issues in the energy, nuclear proliferation, and government management areas. Continued attention to oversight of energy-related issues will be vital. Increasing budgetary constraints and proposed administrative changes will pose new problems in developing and managing U.S. energy policies and programs. Enforcement of the Nuclear Non-Proliferation Act and the development of policies to limit the spread of nuclear and chemical weapons will play a large role in preserving international stability. Continued attention will also be given to promoting the efficient operation of the Federal Government and its programs to ensure the most productive expense of taxpayer dollars.

---

* Joint hearing.

Subcommittee on Information Management and Regulatory Affairs

Chairman: John C. Danforth

Ranking Minority Member: Lawton Chiles

HISTORICAL BANKGROUND

The subcommittee was renamed in the 98th Congress to reflect its particular area of emphasis. The subcommittee had legislative responsibility for the following areas:

Evaluation of efforts to reduce the volume of Federal paperwork;

All measures relating to the open public conduct of the meetings of all branches of the Government;

Oversight of substantive Federal regulatory policies as reflected in Federal agencies' rules, regulations, mandates, directives, guidelines and orders; and

Government research and Government-sponsored research.

During the 97th Congress, the subcommittee was known as the Subcommittee on Federal Expenditures, Research and Rules, and had the following additional areas of responsibility:

Federal spending practices, particularly Federal procurement, and the laws, regulations and procedures governing Federal contracts, grants, transfer payments and other spending arrangements; the Office of Federal Procurement Policy and other executive branch organizations responsible for Federal spending practices;

Efficiency and economy of Federal spending practices, as applied and used to meet agency statutory charters and program objectives;

Development of cost accounting principles in conjunction with the surveillance procedures for contracts; and

Use of consultants for program management and evaluation.

Prior to the 97th Congress, the subcommittee was referred to as the Subcommittee on Federal Spending Practices and Open Government.

LEGISLATIVE ACTIVITIES

Reauthorization of the Paperwork Reduction Act of 1980

The Paperwork Reduction Act of 1980 (Public Law 96-511) contained 3-year paperwork reduction goals and a 3-year funding authorization for the Office of Information and Regulatory Affairs (OIRA), which the Act established within the Office of Management and Budget. These 3-year periods having expired, the subcommittee took up the matter of renewing and revising the Act in the 98th Congress.

In November 1983, the House of Representatives passed H.R. 2718, a 3-year reauthorization of the Paperwork Reduction Act, and this legislation was referred to the subcommittee. Additionally, Senator Danforth, with Senators Chiles, Durenberger and Levin, introduced S. 2433, a 5-year authorization on March 15, 1984. This

legislation was also referred to the subcommittee and became the basis for further action on this issue.

The subcommittee held its third oversight hearing on the Paperwork Reduction Act on May 6, 1983, focusing on the dimensions of the Federal paperwork burden and the administration's efforts in reducing that burden (S. Hrg. 98–258). On April 4, 1984, the subcommittee held a fourth hearing in conjunction with consideration of both H.R. 2718 and S. 2433. At that hearing, Christopher C. DeMuth, Administrator of the Office of Information and Regulatory Affairs, reported that, by the end of 1983, Federal paperwork as measured when the Act was first passed, had been cut by 32 percent, substantially surpassing the Act's goal of a 25 percent reduction. However, Mr. DeMuth added, "We now know that the paperwork burden is much greater and more pervasive than was thought to be the case when the Act became effective. Our current measure of somewhat over 2 billion hours of burden on the public each year may still be understated."

On July 24, 1984, the subcommittee ordered S. 2433 favorably reported with amendments to the Full Committee for consideration. The Full Committee favorably reported the bill to the Senate with amendments on July 26, 1984, and on August 6, 1984, Senator Danforth filed the Committee report (S. Rept. 98–576). No further action on the bill was taken by the Senate.

S. 2433, as amended, would have extended the authorization of appropriations for the OIRA for an additional 4 years. It also would have: directed OIRA to set a goal of reducing paperwork by an additional 5 percent per year during that time period; clarified the application of the Paperwork Reduction Act to all reporting and recordkeeping requirements, whether contained in new or existing rules; required that the Administrator of OIRA be confirmed by the Senate; increased public access to the regulatory review process by requiring OIRA to make available to the public all drafts of proposed rules; and combined the existing Federal telecommunications fund and automated data processing fund into a new Information Technology Fund.

Oversight of the Federal Advisory Committee Act

On June 21, 1984, the subcommittee held an oversight hearing on the workings of the Federal Advisory Committee Act (S. Hrg. 98–1037). Also considered on this occasion was legislation introduced by Senator Bumpers, S. 1641, to prohibit the consideration of political affiliation in selecting scientific advisory committee members, and by Senator Nickles, S. 2127, to prohibit the payment of compensation to advisory committee members (in most cases). No further action on these measures were taken by the subcommittee.

Federal Recordkeeping

S. 827, a bill to limit to 3 years the maximum requirement for Federal recordkeeping, was referred to the subcommittee, but no further action was taken during the 98th Congress. In the subcommittee's view, such recordkeeping limitations were adequately set out in the Paperwork Reduction Act.

OVERSIGHT ACTIVITIES

In addition to the oversight hearings on the Paperwork Reduction Act and the Federal Advisory Committee Act as described previously, the subcommittee continued to monitor compliance by Federal agencies with the Government-in-the-Sunshine Act (Public Law 94-409), relating to open meetings. The subcommittee also monitored compliance by other committees of the Senate with Rule XXVI, paragraph 11(b) of the Standing Rules of the Senate, which requires that a regulatory impact statement accompany the report of any legislation of a public character, and that such statements include "a determination of the amount of additional paperwork that will result from the regulations to be promulgated" pursuant to the legislation.

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Chairman: David F. Durenberger

Ranking Minority Member: Jim Sasser

HISTORICAL BACKGROUND

The subcommittee is primarily an oversight subcommittee with general jurisdiction over intergovernmental relationships between the United States government and the States, municipalities, and other sub-state government units including the fiscal interrelationship between the Federal Government and State and local governments. The general jurisdiction includes the following areas:

Appropriate allocation of governmental functions and powers to various levels of government, including the power of taxation;

Federal policy mandates and the use of enforcement authorities to compel or direct the actions of State and local governments;

State or local government implementation of Federal standards including standards to protect the environment and human health and safety;

Efficiency, economy and effectiveness of public service delivery where services are delivered or administered by State or local governmental units and supported by federal fiscal assistance, including alternatives to current delivery systems;

Fiscal capacity of State and local governments, including the impact of Federal policies and practices and the allocation of Federal assistance on disparities in the fiscal capacity of State and local governmental units;

Administration and management of Federal grant-in-aid programs providing assistance to State and local governments;

Evaluation of studies, reports, and recommendations by the Advisory Commission on Intergovernmental Relations (ACIR); and

Non-disclosure of records of individuals by Federal agencies.

In the 98th Congress, the Subcommittee on Intergovernmental Relations concentrated its efforts in five major areas:

(1) The development of uniform single audit legislation.

(2) The continued development of legislation to amend the Uniform Relocation Assistance and Real Property Assistance Act of 1970 (URA).

(3) Oversight of lobbying activities and development of legislation concerning those activities.

(4) Oversight of regional governance mechanisms.

(5) Continued monitoring of regulatory cost accounting and budgeting and the development of related legislation.

LEGISLATIVE ACTIVITIES

Measures Enacted into Law

Uniform Single Audit Act

S. 1510 was introduced by Senator Durenberger on June 21, 1983. This legislation provides for the establishment of uniform single financial audit requirements for State and local governments and nonprofit organizations and other recipients of Federal assistance. The principal purpose behind the measure is to permit recipients (principally State and local governments) to conduct a single audit of all major Federal grant programs in lieu of conducting individual audits on a grant-by-grant basis.

In the past, the Federal Government audited its grant programs on a grant-by-grant basis, which resulted in few programs actually being audited. State governments generally filled this audit gap, in keeping with sound management practices, and because bond-rating houses require such audits in order to rate the credit worthiness of State and local governments. The Single Audit Act expanded the scope of the Federal audit to include a general audit of all major grant programs administered by the recipients. This procedure relieves recipients of the need to conduct the audits themselves, and of the administrative costs associated with self-audits, as well as promoting efficiency in Federal audit practices.

S. 1510 was considered by the subcommittee, and a hearing held on June 30, 1983 (S. Hrg. 98-350). On August 1, 1983, the bill was favorably reported to the full Senate with an amendment in the nature of a substitute (S. Rept. 98-234). S. 1510 passed the Senate by voice vote on November 2, 1983, and passed the House on October 9, 1984. The measure was signed into law on October 19, 1984 (Public Law 98-502).

Catalog of Federal Domestic Assistance

S. 1267 (H.R. 2592), a bill to transfer responsibility for publication of the Catalog of Federal Domestic Assistance from the Office of Management and Budget to the Administrator of the General Services Administration was introduced by Senators Stevens and Durenberger. It was designed to transfer responsibility for implementation of a function which was not receiving adequate attention at OMB, due the organizational mission of the agency, to an agency better suited to the task.

S. 1267 was considered by the subcommittee in a hearing on May 12, 1983 (S. Hrg. 98-281). The bill, with amendments, was favorably reported to the Senate on September 1, 1983. On October 28, 1983, final passage of S. 1267 was vitiated by unanimous consent. The

Senate passed H.R. 2592 by voice vote after inserting the text of the House bill in lieu of the Senate measure. The House agreed to the Senate amendment of November 17, 1983, and the measure became law on November 29, 1983 (Public Law 98–169).

Federal Capital Investment Program Information Act

S. 1432 was introduced by Senator Durenberger. Its purpose was to amend the United States Code relating to the President's budget, to require information concerning major capital investment programs of the United States. In the past, the Federal budget has failed to distinguish between expenditures that fund transfer payments and those which are investments in the capital stock of the Federal Government. This legislation requires the submission of a special analysis in the Federal budget to identify capital investment expenditures.

The subcommittee held a hearing on S. 1432 on September 14, 1983 (S. Hrg. 98–489). On October 19, 1983 during a markup in the Senate Environment and Public Works Committee, the text of S. 1432 was included as an amendment to S. 1330, a bill to authorize the Army Corps of Engineers to provide grants to several States to encourage the construction of necessary capital investment projects. S. 1330 was reported to the Senate on November 18, 1983 (S. Rept. 98–341), and passed the Senate with an amendment on February 9, 1984. The House disagreed with the Senate amendment, and in a conference committee on October 3, 1984, all text of S. 1330 was deleted, except the text of S. 1432. S. 1330 was signed into law on October 19, 1984 (Public Law 98–501).

Legislation Passed in the Senate

Uniform Relocation Act Amendments

S. 531 was introduced on February 17, 1983 by Senator Durenberger at the request of the Reagan administration.

S. 531 was considered by the subcommittee, although no hearings were held in the 98th Congress. Hearings had been held on similar legislation during the 97th Congress. The purpose of S. 531 was to comprehensively amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA). The bill sought to broaden the coverage of the Act to accommodate judicial rulings and new program types, institute a range of management reforms, and relieve State and local governments from certain administrative costs. A key reform drafted in the 98th Congress was the creation of an entitlement for utility companies to relocation compensation if a State law provided for such compensation and certain other conditions were met. Utilities' rights under the 1970 Act were circumscribed under the Supreme Court decision in the case *Chesapeake and Potomac Company* v. *Norfolk Housing and Redevelopment Agency et al.*, requiring congressional action. The most significant administrative reform in S. 531 is its "certification" provision, which would permit the heads of Federal agencies to discharge their responsibilities under the Act when a State adopted its own law to accomplish the same purpose.

S. 531 was approved for Full Committee consideration on March 14, 1983 and reported to the Senate with an amendment in the

nature of a substitute on May 5, 1984 (S. Rept. 98-71). The Senate passed the bill by voice vote on May 20, 1983. Subsequently, the text of S. 531 was added to H.R. 2527 by the Committee on Environment and Public Works on June 6, 1984, and the text of H.R. 2527 substituted for that of H.R. 5504, which passed the Senate on October 5, 1984.

Advisory Commission on Intergovernmental Relations

S. 1052, to make certain changes in the membership and operations of the ACIR, was introduced by Senator Roth on October 9, 1983. S. 1052 would add two new members to the ACIR—an elected school board official and an elected town or township official. The legislation would also change the quorum rule governing Commission actions, making a quorum a majority of sitting members, rather than a majority of ACIR positions. This change recognized the fact that, from time to time, open seats exist on the Commission. A second administrative change provided for the updating of names of some Commission nominating organizations.

S. 1052 was referred to the subcommittee, which approved the bill for Full Committee consideration on May 13, 1984. The Full Committee favorably reported to the Senate on August 1, 1983 (without a written report), and on September 14, 1983, the Senate passed S. 1052 by voice vote. The House approved the bill with an amendment on October 2, and the Senate concurred in the House amendment on October 9, 1984. No further action was taken during the remaining time of the 98th Congress.

Legislation Developed by the Subcommittee

S. 908, the State and Local Recession Assistance Act. This bill would provide fiscal assistance to State and local governments during periods of economic recession.

S. 1685, the Federal Employees Health Plan Improvements Act, a bill relating to Federal employees health benefits programs. The principal intent of this legislation was to reduce program costs to the Federal Government, while expanding the choices of Federal employees in respect to the health care service coverage they may select.

S. 1736, the Regulatory Policy Act. This bill would establish a process to provide for submission to Congress of an annual regulatory budget. This budget would recommend, by specific economic sector, the costs to be incurred during the fiscal year beginning on October 1.

S. 1902, a bill to insure that the 9-digit ZIP Code remains voluntary.

S. 1930, the Federal Employees' Family Equity Act. This bill provides for equitable support of former spouses, spouses and children of Federal employees.

S. 2251, the Uniform Lobbying Cost Principles Act. This legislation would establish uniform Federal policy governing the use of Federal funds for lobbying by contractors and grantees, and provide for the disclosure of the costs of certain exempted activities to members of Congress.

S. 2390, the Integrity in Lobbying Act, a bill to amend the Federal Regulation of Lobbying Act to broaden the definition of "lobbying" and stimulate greater voluntary compliance with the Act.

S. 2401, the Intergovernmental Regulatory Relief Act. This bill would require the provision of compensation for additional direct costs incurred by State and local governments in complying with intergovernmental regulations promulgated under significant Federal laws.

S. 3039, the Balanced Budget Procedures Act. This bill would provide for procedures to eliminate the structural deficit in the Federal budget and establish a National Bipartisan Commission on the Balanced Budget.

OVERSIGHT ACTIVITIES

The 98th Congress saw the subcommittee turn its emphasis toward greater oversight activities. Some oversight efforts included:

1. General Revenue Sharing.—The subcommittee held oversight hearings on the General Revenue Sharing program on April 5 and 6, 1983. The hearings preceded the development and enactment of a bill by Senator Durenberger to reauthorize the General Revenue Sharing program for 3 years at 1984 levels. The bill was acted on by the Senate Finance Committee.

2. Office of Management and Budget Circular A-95 and Executive Order 12372.—On March 23, 1983, the subcommittee held a hearing on the OMB initiative to eliminate OMB Circular A-95 (Intergovernmental Review of Federal Programs) and re-establish the requirements of that circular in Executive Order 12372. The subcommittee examined this change to ensure that Federal law was implemented under the new Executive order. Following the hearing, at which opposing viewpoints and legal interpretations were set forth, the subcommittee staff negotiated a compromise version of the Executive Order which was satisfactory to the subcommittee chairman.

3. Metropolitan Regional Governance.—On November 6, 1984, the subcommittee held an oversight hearing on the state of metropolitan regional government as an institutional mechanism for decisionmaking on local public policy. The various forms of regional organization were documented, and several perspectives were incorporated into the public record, intended to serve as a resource for local governments considering the desirability of instituting or modifying such governmental mechanisms.

4. OMB Circular A-122.—The subcommittee held an oversight hearing on April 2, 1984 on the Office of Management and Budget's proposed changes to OMB Circular A-122 (Cost Principles for Nonprofit Organizations), which was designed to implement a policy that the cost of lobbying is not reimbursable under Federal grants and contracts. Similar changes were also proposed in cost principle regulations governing for-profit contractors. In its initial proposals, OMB defined the term "lobbying" very broadly, and sought to exclude all Federal assistance or business from an organization if the organization used any equipment or personnel funded in part with Federal lobbying funds. Subsequent proposals were still considered

"overbroad" by some members of Congress and other affected parties.

The hearing examined OMB proposals, as well as Senator Durenberger's legislation to supersede the proposals with legislation. As a result, the subcommittee staff was able to negotiate a generally acceptable compromise with OMB.

5. Advisory Commission on Intergovernmental Relations.—In joint hearing with the House Subcommittee on Intergovernmental Relations and Human Resources on April 25, 1984, the subcommittee focused on the 25-year record of the ACIR, surveying the Commission's past accomplishments and taking testimony on its future plans.

6. State Lotteries.—On October 3, 1984, the subcommittee held an oversight hearing to examine the proliferation of governmentally sponsored lotteries as a means of raising revenue. To the extent possible, the subcommittee documented the various types of lottery games, the distribution of lottery revenues, the socio-economic status of those who participate in lottery games, and the philosophical and economic questions associated with the adoption of lotteries.

7. The 1946 Federal Regulation of Lobbying Act. —The subcommittee assisted the Full Committee in the oversight of this Act. It staffed two hearings on November 15 and 16, 1983 chaired by Senator Durenberger. The subcommittee also developed an oversight report (unprinted at this date) on lobbying activities.

REPORTS OF THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

In accordance with its mandate, the subcommittee also examined reports and recommendations submitted to the Congress by the ACIR. These reports include:

(1) A-97. "Strengthening the Federal Revenue System."
(2) A-92. "State Taxation of Multinational Corporations."
(3) A-93. "1981 Tax Capacity of the Fifty States."
(4) M-137. "1982-83 Significant Features of Fiscal Federalism."
(5) A-96. "Financing Public Physical Infrastructure."
(6) S-13. "Changing Attitudes on Government and Taxes."
(7) A-95. "Regulatory Federalism: Policy, Process, Impact and Reform."
(8) M-139. "A Catalog of Federal Grant-In-Aid Programs to State and Local Governments."

SUBCOMMITTEE ON CIVIL SERVICE, POST OFFICE, AND GENERAL SERVICES

Chairman: Ted Stevens

Ranking Minority Member: Jeff Bingaman

HISTORICAL BACKGROUND

The Subcommittee on Civil Service and General Services was established in the 95th Congress with legislative and oversight responsibility over two major areas of the Federal Government—the

operation of its personnel, employment, and benefits systems and the operation and maintenance of Federal non-defense real and personnel property. Prior to the establishment of the subcommittee, these responsibilities were administered by the former Post Office and Civil Service Committee and the Government Operations Committee.

In the 97th Congress, the jurisdiction of the subcommittee was increased by adding the legislative and oversight responsibilities for the U.S. Postal Service. Consequently, the subcommittee jurisdiction now encompasses the responsibilities of the former Senate Post Office and Civil Service Committee and the House Post Office and Civil Service Committee, in addition to the legislative and oversight responsibilities for the General Services Administration.

In the 98th Congress, the number of members on the subcommittee was increased by two. The three majority members were Senator Ted Stevens of Alaska, who continued in a second term as Chairman; Senator Charles McC. Mathias, Jr. of Maryland, and Senator William L. Armstrong of Colorado. The two minority members were Senator Jeff Bingaman of New Mexico and Senator Jim Sasser of Tennessee.

LEGISLATIVE ACTIVITIES

During the 98th Congress, 82 bills were referred to the subcommittee: 70 Senate bills and 12 House bills. Following are summaries of legislation considered by the subcommittee, including bills which became public law, were passed by the Senate and House, and were passed by the Senate.

Bills Enacted into Law

The following legislation was enacted into law during the 98th Congress, either as an original bill or as part of other legislation:

S. 329, authorizing the donation of surplus property to any State for the construction and modernization of criminal justice facilities; identical provisions included in Title VII of S. 1762, the Comprehensive Crime and Control Act, which passed the Senate on February 2, 1984. The text of S. 1762 was included in H.J. Res. 648, the Continuing Resolution (Public Law 98-473).

S. 373, the Arctic Research and Policy Act of 1983 (Public Law 98-373).

S. 905, the National Archives and Records Administration Act of 1983; passed the Senate on June 21, 1984 and passed the House on August 2, 1984 after inserting the text of H.R. 3987 (Public Law 98-497).

S. 958, the Merit Pay Reform Act of 1983; passed the Senate on March 1, 1984; Titles I and II were included as an amendment to H.R. 2300, the Civil Service Retirement Spouse Equity Act (Public Law 98-615).

S. 1163, provides death benefits to survivors of Federal law enforcement officers and firefighters; language included in H.R. 5712, the Commerce, Justice, and State Department Appropriations (Public Law 98-411).

S. 1601, to delay by 1 year the effective date of the Catch 62 resolution; language was included in S. 675, the Defense Appropriations (Public Law 98-94).

S. 1664, to make the Chairman of the Federal Labor Relations Authority (FLRA) the chief executive and administrative officer of the FLRA; referred to Full Committee on November 15, 1983; identical language included in H.R. 4336 which passed the Senate on February 9, 1984 (Public Law 98-224).

S. 1782, to designate the U.S. Post Office Building in Oshkosh, Wisconsin as the "William A. Steiger Post Office Building"; identical House bill, H.R. 3835; passed Senate on October 16, 1983 (Public Law 98-131).

S. 1879, revises the authority to reimburse Federal employees for certain moving expenses; language included in H.J. Res. 413, the Continuing Resolution (Public Law 98-151).

S. 2595, transfers jurisdiction for Federal property, in New York State (Montauk Point); language included in H.R. 4170, the Deficit Reduction Act (Public Law 98-369).

H.R. 2077, extends the Federal Physicians Comparability Allowance Act of 1978 and sets up interim retirement provisions for new Federal hires covered by Social Security (Public Law 98-168).

H.R. 2196, authorizes appropriations for the National Historical Publications and Records Commission (Public Law 98-189).

H.R. 3151, designates the U.S. Post Office Building to be constructed in Fort Worth, Texas, as the "Jack B. Watson Post Office Building"; vitiated by passage of S. 1797 (Public Law 98-81).

H.R. 4473, designates the Federal Archives and Records Center in San Bruno, California as the "Leo J. Ryan Memorial Federal Archives and Records Center" (Public Law 98-580).

Bills Passed by the Senate

S. 803, to establish a Commission on the Centennial Review of the Civil Service; passed the Senate on March 22, 1984; referred to House Post Office and Civil Service Committee on March 26, 1984.

S. 1513, to extend for 5 years the authorization of appropriations for the National Historical Publications and Records Commission; passed the Senate on October 6, 1983. House and Senate ultimately passed H.R. 2196, also considered by the subcommittee.

S. 2721, to confirm the conveyance of certain real property of the Southern Pacific Transportation Company to Ernest and Dianna Pritchett; passed the Senate on September 28, 1984; referred to House Committee on the Interior on October 1, 1984.

Bills Reported by the Subcommittee and Approved by the Full Committee

The following bills were reported by the subcommittee, and favorably reported by the Full Committee to the Senate:

S. 1009, to reauthorize the Federal Physicians Comparability Allowance, having been reported to the Full Committee as amended to include S. 396, for the relief of certain Federal physicians. House and Senate ultimately passed H.R. 2077, also considered by the subcommittee.

S. 2393, to codify in permanent law the authority for Postal Service security personnel to exercise special powers.

The following bills were favorably reported by the subcommittee to the Full Committee, but no further action was taken:

S. 1664, to make the Chairman of the FLRA the chief executive and administrative officer of the FLRA.

S. 1665, to provide for operational continuity of the Office of General Counsel of the FLRA during a vacancy in that position.

S. 2041, to require the disposal of certain lands at Montauk Air Force Station, New York, for park and recreation use.

S. 2115, to amend provisions regarding the Executive Exchange Program.

H.R. 593, to designate the New York Bulk and Foreign Mail Center at Jersey City, New Jersey, as the "New Jersey International and Bulk Mail Center."

H.R. 4697, to designate the U.S. Post Office Building in Romulus, Michigan as the "Carl W. Morris Post Office Building."

LEGISLATIVE HEARINGS

The subcommittee held hearings on the following pieces of legislation:

Civil Service

S. 1009, to reauthorize the Federal Physicians Comparability Allowance, and S. 369, for the relief of certain Federal physicians. May 25, 1983.

S. 958, the Merit Pay Reform Act. May 26, June 9 and July 14, 1984.

S. 803, to establish a Commission on the Centennial Review of the Civil Service. November 2, 1983.

S. 1662, S. 1664, S. 1665, to clarify the authority of the Office of Special Counsel and the Federal Labor Relations Authority. November 9, 1983.

S. 172, S. 178, S. 182, S. 198, S. 1685, S. 2027, Federal Employees Health Benefits Program legislation. December 1, 1983.

S. 2115, to amend provisions regarding the Executive Exchange Program. March 28, 1984.

S. 2821, the Civil Service Former Spouses Benefits Act. August 1, 1984.

Postal Service

S. 450, the Mail Order Consumer Protection Amendments of 1983. March 2, 1983.

General Services Administration

S. 102, S. 1472, Oversight of GSA's Federal Surplus Real Property Disposal Program. November 1, 1983.

Miscellaneous

S. 2116, to accept the findings on Wartime Relocation and Internment of Civilians. August 16, 1983 (Los Angeles, California) and August 29, 1983 (Anchorage, Alaska).

OVERSIGHT ACTIVITIES

The subcommittee's oversight activities during the 98th Congress continued to focus on changing developments in Federal personnel management, improved management and productivity in the Postal Service, and the use and disposal of Federal non-defense real personal property.

Of the 19 hearings the subcommittee held, 14 concerned civil service issues. In addition to those hearings listed previously, two hearings were held on "Management Theories in the Private and Public Sectors." The intent of these hearings was not legislative in nature, but rather to gather information on techniques to improve the productivity and morale in the Federal workforce.

The development and design of a new civil service retirement system for new hires continue to be a major force for the subcommittee, as part of its jurisdictional mandate requires that such a system be enacted by December 31, 1985. However, with regard to oversight activities, the subcommittee focused primarily on retiree cost-of-living adjustments (COLAs), the budgetary impact of proposed changes to retirement qualifications, and other ancillary issues.

Oversight activities under civil service also included a joint hearing with the Senate Defense Appropriations Subcommittee on "Comparison of Pay and Benefits Between Uniformed Military and Federal Civilian Employees."

The subcommittee also focused extensive attention on the Federal Employees Health Benefits Program legislation. The subcommittee intends to monitor new developments in this area during the 98th Congress.

The subcommittee closely monitored the operation of the Postal Service, particularly its ongoing labor contract negotiations. The staff worked in tandem with the Senate Appropriations Subcommittee on Treasury, Postal Service, and General Government on related issues. A large amount of time and effort was devoted to ensuring that the rights of individuals were protected during consideration of legislation (S. 450) to increase the police powers of the Postal Service with regard to fraudulent mail-advertising schemes.

Oversight of the General Services Administration consisted of reviewing the procedures for managing the non-defense property of the Government, with an eye toward reducing waste, fraud and abuse. In the future, the subcommittee will continue to oversee the disposal of surplus real property to determine the "best use" policy for this property.

HEARINGS

Significant hearings held by the subcommittee during the 98th Congress included:

Merit Pay and proposals from the Office of Personnel Management dealing with pay-for-performance, RIFs and labor/management regulations.—The subcommittee held four hearings on this subject, receiving testimony from the Administration, GAO, labor organizations, management groups. While this issue is highly volatile and OPM has been barred from implementing its original regulations until July 1985, these hearings were of critical importance

in illustrating the problems and allowing Congress to respond fairly to this issue.

Federal Employees Health Benefits Program.—This issue continues to be a major focus of subcommittee action, in light of pressure to streamline the Federal budget, and higher health premiums and lower benefits facing federal employees. The subcommittee held an all-day hearing on this subject on December 1, 1983.

Former Spouses Benefits Act.—The subcommittee hearing on March 28, 1984 was instrumental in identifying aspects important to the enactment of legislation on this subject.

Mail Order Consumer Protection.—On a third attempt to enact legislation to protect consumers from mail fraud, the Congress passed S. 450. This legislation was discussed during the hearing, allowing both proponents and opponents to express their views to the Congress.

REPORTS, PRINTS, AND STUDIES

In December 1983 and February, April, May, and July 1984, the subcommittee sponsored five forums on pension policy. These forums were designed to expand the knowledge and experience of Congressional staff and employee organizations who are involved in formulating a new civil service retirement system for new hires. Each forum had an average of six speakers who presented papers on such topics as the background of benefit programs, intergration of Social Security, designing a new system, and options to be considered regarding different designs.

The transcripts from these forums were printed to provide widespread availability of information necessary in the development of a new civil service retirement system.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Chairman: William S. Cohen

Ranking Minority Member: Carl Levin

HISTORICAL BACKGROUND

The Oversight of Government Management Subcommittee was created early in the 96th Congress to oversee the "economy and efficiency of Government operations, with particular attention to examining the reasonableness, fairness, effectiveness and lawfulness of the implementation of regulations associated with Federal programs."

In addition to this oversight mandate, the subcommittee's jurisdiction was broadened at the beginning of the 97th Congress to include ethics laws and standards applicable to the Executive branch, such as the Ethics in Government Act of 1978 and Executive Order 11222. A further reorganization of subcommittee assignments in the 98th Congress added Federal procurement to the subcommittee's legislative jurisdiction.

Acting on these extensive oversight and legislative responsibilities, the subcommittee conducted a wide range of hearings and investigations during the 98th Congress.

LEGISLATIVE ACTIVITIES

1. The Competition in Contracting Act: Public Law 98-369.

The Competition in Contracting Act (CICA), signed into law on July 18, 1984 as part of the Deficit Reduction Act, represents the culmination of nearly 5 years of work by the Oversight Subcommittee to remedy a fundamental and pervasive problem in government contracting—the lack of competition. The objective of CICA is to establish a statutory preference for competition in awarding Federal contracts and to impose restrictions on the awarding of non-competitive, or sole-source, contracts.

While not all Government contracts can be awarded competitively, the subcommittee found that agencies too often contract on a sole-source basis when competition is available. According to figures compiled by the Federal Procurement Data Center, of a total of $152 billion awarded by Government agencies in fiscal year 1983 for contracts over $10,000, more than $88 billion—or 58 percent—was awarded noncompetitively. Unless noncompetitive contracting is limited only to those situations when it is truly warranted, the Government loses considerable benefits and incurs greater costs.

The subcommittee identified several deficiencies in the procurement system that contributed to this excessive use of sole-source contracting:

The procurement statutes failed to recognize negotiation as a legitimate competitive procurement procedure and did not adequately restrict the use of noncompetitive negotiation.

The exceptions to formal advertising, which allow agencies to use negotiation procedures, were used inappropriately in many cases to justify sole-source procurement.

The rush to spend appropriated funds at the end of the fiscal year, often due to ineffective procurement planning, curtailed competition.

Market research, used to determine the availability of competition in the market place, was not being done.

Overly-detailed specifications unnecessarily restricted procuring agencies from considering acceptable alternatives, and often resulted in only one contractor capable of meeting agency needs.

In some cases, agencies had an institutional bias against competition which discouraged contracting officers from obtaining competition.

To correct these problems, Senators Cohen, Levin, Roth, and others first introduced CICA as S. 2127 on February 23, 1982. The basis for this legislation was the administration's proposal for a Uniform Federal Procurement System, which resulted from a 1972 report by the Commission on Government Procurement. S. 2127 was the subject of hearings during the 97th Congress, and was reported by the Full Committee, but no further action was taken in that session.

Senator Cohen et al. reintroduced CICA as S. 338 in the 98th Congress on February 1, 1983. The Full Committee again favorably reported the legislation on March 21, 1983 (S. Rept. 98-50), and the bill was then sequentially referred to the Senate Armed Services Committee for consideration of the amendments to the Armed

Services Procurement Act. The Armed Services Committee held 2 days of hearings and subsequently reported S. 338 without significant modification on June 27, 1983. The Senate passed S. 338 by unanimous consent on November 11, 1983.

On April 30, 1984, Senator Cohen offered the text of S. 338 as a floor amendment to what became the Deficit Reduction Act. The amendment was adopted by voice vote. The Deficit Reduction Act eventually passed both Houses, and the CICA portion went to subconference. Members of both the Senate and House Armed Services Committees, participated in the subconference. They adopted a substitute to the Senate amendment which represented a compromise between S. 338, H.R. 5184 (a companion bill), and H.R. 2545, a House Armed Services bill. The conference substitute retained the major provisions of S. 338—incorporated "full and open" as the required standard for competition; strengthened the justification, approval and notice requirements to safeguard against unnecessary sole-source contracts; established competition advocates within each procuring activity to enhance accountability; and strengthened the bid protest process.

CICA, as enacted, addresses the deficiencies in the procurement system which were identified by the subcommittee:

> CICA establishes an absolute preference for competition by removing the restriction from, and the written justification required for, competitive negotiation and places it on part with formal advertising; together they constitute competitive procedures.
>
> Within this new statutory framework, CICA requires agencies to use competitive procedures—whichever is most conducive to the conditions of the contract—in order to obtain "full and open" competition.
>
> CICA provides seven exceptions to competitive procedures which permit an agency to use noncompetitive procedures in awarding a contract. These exceptions parallel the conditions under which the Comptroller General has historically authorized agencies to contract on a sole-source basis.
>
> By shifting the emphasis from justifying the use of negotiation, which has always been pro forma, to justifying the use of noncompetitive procedures, CICA restricts sole-source contracting to only those situations when it is truly necessary.
>
> Even in these instances, CICA requires an agency to meet the following safeguards before a sole-source award may be made: (a) the need to award a sole-source contract must be justified in writing and certified by the contracting officer; (b) the justification must be reviewed and approved by a superior officer, whose position depends on the dollar value of the contract; and (c) a notice must be published in *Commerce Business Daily* welcoming bids from all potential competitors.
>
> For all competitive and noncompetitive procurements, CICA sets forth planning and solicitation procedures that require agencies to make an affirmative effort to obtain "full and open" competition.
>
> CICA also requires agencies to develop nonrestrictive specifications that maximize, rather than limit, competition. Under CICA, agencies are authorized to specify their needs in either

functional, performance or detailed design terms, whichever will ensure timely performance and promote the use of competition.

CICA facilitates oversight of noncompetitive contracts by requiring agencies to maintain records, by fiscal year, that identify all sole-source procurements. In addition, an advocate for competition will be appointed in each procuring activity and will be responsible for reporting the opportunities to achieve competition and any conditions that could potentially restrict competition.

Finally, CICA codifies and strengthens the General Accounting Office bid protest function to ensure that the mandate for competition is enforced and that vendors wrongfully excluded from competing for government contracts receive equitable relief. The addition of the bid protest provisions was the most significant change made to S. 338 in conference.

As followup to the enactment of CICA, the subcommittee will be reviewing the implementing regulations to ensure that they accurately reflect the statutory requirements and that the agencies comply with those requirements.

2. The Office of Federal Procurement Policy Act Amendments: Public Law 98-191.

Acting on the recommendation of the Commission on Government Procurement, Congress in 1974 created the Office of Federal Procurement Policy (OFPP) within the Executive Office of the President to provide overall direction and leadership in federal procurement policymaking. The OFPP was reauthorized in 1979 for an additonal four years until September 30, 1983.

On April 7, 1983, Senators Cohen and Roth introduced S. 1001, legislation to reauthorize OFPP for an additional 5 years.

The subcommittee held a hearing on S. 1001 on April 27, 1983, and received testimony from administration witnesses, former OFPP Administrators, the American Bar Association, the Chamber of Commerce and procurement expert Professor John Cibinic, Jr., of George Washington University National Law Center. In addition, the subcommittee solicited over 35 responses from procuring agencies, contracting associations, former members of the Commission on Government Procurement, and other experts.

To assist in its deliberations, the subcommittee also asked the GAO to conduct a study on OFPP's role in promoting procurement reform contained in Executive Order 12352. This report, "Progress of Federal Procurement Reform Under Executive Order 12352," was issued on June 17, 1983. Based on the GAO recommendations, testimony at the hearing and responses to its questionnaire, the subcommittee concluded that a strong central procurement office is needed even more today than when it had first been recommended more than a decade ago. The dollar value of Government contracts has almost tripled during the past 10 years—from $57.5 billion in fiscal year 1972 to $158.9 billion in fiscal year 1982—with over 130,000 Federal employees now involved in the procurement process. The magnitude and budgetary significance of Government contracting alone mandate the existence of a strong procurement policy office.

The subcommittee also found a strong concensus that the OFPP's effectiveness could be improved if its authority were strengthened. Consequently, on July 25, 1983, the subcommittee adopted a substitute for S. 1001 which codified the agency management responsibilities included in the Executive order, provided regulatory authority to the Administrator, and authorized the OFPP to test innovative procurement techniques. The subcommittee retained the provision in S. 1001 reauthorizing the Office for an additional 5 years, but increased the authorization level from $4 million to $5 million annually.

The Full Committee voted 13–0 to report S. 1001 as amended on August 1, 1983 (S. Rept. 98–214). The bill was further amended during floor consideration to reflect the Committee's intention as to when regulatory authority could be used (a concern of the Senate Armed Services Committee), and a compromise between the Governmental Affairs Committee and the House Government Operations Committee which provided for a reauthorization of 4 years and an annual authorization of $4.5 million. S. 1001 as amended was approved by the Senate on November 15, 1983. The House concurred in the Senate amendments on November 17, and the legislation was signed by the President on December 1, 1983.

3. Office of Government Ethics Reauthorization: Public Law 98–150.

During the 97th Congress, the subcommittee reviewed and amended the independent counsel (special prosecutor) provisions of the Ethics in Government Act of 1978. Continuing its examination of the Ethics Act in the 98th Congress, the subcommittee acted on legislation, sponsored by Senators Cohen and Levin, to reauthorize the Office of Government Ethics (Title IV of the Ethics Act).

Congress created the OGE to oversee, monitor, and enforce compliance with financial disclosure and other conflict-of-interest requirements applicable to executive branch employees. The OGE provides direction to designated agency ethics officials in interpreting ethics laws, regulations and standards of conduct. In addition, the OGE examines the financial disclosure reports filed by presidential nominees and certifies to the appropriate Senate committees that nominees subject to Senate confirmation are in compliance with conflict-of-interest laws and regulations.

Senators Cohen and Levin introduced S. 461, to reauthorize the OGE for 5 additional years, on February 3, 1983. The subcommittee held a hearing on February 24, at which time testimony was received from David Scott, acting director of the OGE, J. Jackson Walter, former OGE director and then president of the National Academy of Public Administration, and Ann McBride, a vice president of Common Cause.

A key issue examined by the subcommittee was the possible need for statutory changes to ensure that decisions by the OGE are—and appear to be—free of political pressure from the White House, OPM or other source. Although at the time of the hearing, the subcommittee found no evidence that either the Carter or Reagan Administrations had ever attempted to influence an OGE decision, the subcommittee concluded that the independence of the Office should not depend on the attitude or support of any one administration.

To accomplish this goal, the subcommittee's Chairman and Ranking Minority Member proposed several amendments to S. 461 at a Committee markup on March 17, 1983. The first amendment set the term of the Director at 5 years, making him or her removable only for "good cause." The second amendment allowed the director to issue regulations in his or her own name, the intent of which was to affirm the primacy of the OGE in establishing the conflict-of-interest policies of the executive branch. The third amendment provided OGE with a separate line-item in OPM's budget to avoid administratively imposed budget restrictions which could impair the effectiveness of the Office.

The Senate approved the bill by voice vote on April 6, 1983. In consideration by the House Committee on Post Office and Civil Service and the House Judiciary Committee, the provisions relating to the independence of the Office were generally dropped. In a subsequent compromise, the provisions pertaining to a 5-year term for the director, a separate line-item for the OGE, and regulations issued by the director were agreed to, as were House provisions improving financial disclosure by nominees and the staff of Federal advisory committees. President Reagan signed the 5-year reauthorization into law on November 11, 1983.

4. Social Security Disability Benefits Reform Act of 1984: Public Law 98-460.

Public Law 98-460 had its origins in oversight hearings held by the subcommittee in 1982 and 1983 to examine problems in the Social Security Disability program.

The Social Security disability insurance program provides cash benefits and Medicare coverage to people who can no longer work due to disabling illness or accidents. Financed by the Social Security payroll taxes paid by both employers and employees, this program covers 90 percent of our nation's workforce. In order to qualify for benefits, an individual must have a physical or mental impairment expected to result in death or to last at least 12 months, and must be so disabled that he or she cannot perform and job (taking into account the person's age, education and work experience). The individual must also have worked long enough and recently enough to be insured under the Social Security program.

In 1980, Congress passed legislation ordering the Social Security Administration to review the eligibility of individuals receiving disability benefits. Unfortunately, Congress did not establish standards for conducting the reviews, and the administration accelerated the review a year earlier than Congress had mandated—before staff was trained and procedures to ensure fairness were in place. This resulted in hundreds of thousands of disabled people whose benefits were wrongfully curtailed. Between March 1981, when the reviews began, and April 1983, when Secretary Heckler imposed a moratorium, more than 490,000 beneficiaries were disqualified by State agencies which apply SSA guidelines. An estimated 45 percent of those reviewed were ruled ineligible—more than twice the predicted rate—yet more than 200,000 individuals were reinstated after appealing to administrative law judges or the Federal courts.

Senators Cohen and Levin authored temporary legislation, signed into law on January 12, 1983, to allow benefits to be paid pending

appeal of a termination decision to an administrative law judge. To remedy the fundamental flaws in the disability adjudications, Senators Cohen and Levin then introduced S. 476, comprehensive disability reform legislation, on February 15, 1983. The bill was subsequently referred to the Senate Finance Committee.

Over the next 20 months, the Senators, as well as the subcommittee staff, devoted much effort to seeing S. 476 enacted. Finally, on May 23, 1984, the Senate approved S. 476 by a vote of 96–0. After a lengthy conference, both chambers passed a compromise on September 19, 1984, and the legislation became law on October 9, 1984.

At the heart of the new law are the criteria it establishes for determining whether benefits should be continued or terminated. Generally, the Social Security Administration will have to demonstrate that a beneficiary's medical condition has improved before benefits can be terminated. If the SSA finds that the beneficiary's condition has remained the same or worsened, benefits could only be cut off if a specific exemption to the medical improvement rule applies to the case. Other important provisions of the law mandate more careful consideration of applicants with multiple impairments; require the standards used to adjudicate disability claims to be issued as regulations subject to public notice and comment; and allow benefits to be paid during the appeals process until December 1987 for Title II disability terminations and permanently for Supplemental Security Income cases. Other provisions include a requirement for pilot projects in which applicants and beneficiaries will have personal interviews with the State claims examiners who decide their cases, and a requirement that the Secretary conduct a study on the evaluation of pain in determining the eligibility for benefits and temporarily codify the current SSA policy on pain.

5. Public Participation in Procurement Policymaking Act: Public Law 98–577.

On May 16, 1984, Senator Cohen, along with Senators Weicker, Levin, Chiles, Rudman, Dixon, and Bumpers, introduced S. 2674, the Public Participation in Procurement Policymaking Act. This legislation required agencies to publish proposed procurement regulations in the Federal Register to allow for public comment. The bill was based on the finding of the Commission on Government Procurement that increased public participation would improve the quality and effectiveness of procurement policies. S. 2674 was incorporated into the Small Business and Federal Competition Enhancement Act (Public Law 98–577), legislation which was reported by the Senate Small Business Committee and signed into law on October 30, 1984.

6. S. 2300, the Civilian Agency Multi-year Contracting Act of 1984.

Another procurement initiative considered by the subcommittee was S. 2300, which authorized civilian agencies to enter into multi-year contracts.

The Defense Department was granted multi-year contract authority in 1980. Civilian agencies, however, do not have this authority and consequently, are precluded by the Anti-Deficiency Act from obligating funds in excess or in advance of appropriations.

The Civilian Agency Multi-year Contracting Act would extend multi-year contracting authority government-wide and allow civilian agencies to procure on a multi-year basis, with annual appropriations, as long as certain criteria are met.

The subcommittee held a hearing on S. 2300 on March 13, 1984. Witnesses testified that multi-year contracting, when used appropriately, could significantly reduce costs, improve the quality of contract performance, and increase competition for contracts. Small businesses, in particular, would be able to bid for multi-year contracts by prorating non-recurring "start-up" costs which, for a one year contract, would preclude them from competing. General Services Administration officials suggested that multi-year contracting would be particularly valuable for recurring support services, such as janitorial and maintenance, and trash and snow removal services. They also anticipated further use in procuring common use supplies and telecommunications equipment.

The Full Committee favorably reported S. 2300 (S. Rept. 98–417) by a vote of 10–0 on April 9, 1984. The Senate passed the bill on May 23, 1984 by unanimous consent, but no action was taken by the House during the 98th Congress.

7. Other Legislative Activities.

The subcommittee staff also reviewed and requested executive comment on the following bills referred to the subcommittee: S. 181, the Construction Contract Payment Procedures Act of 1983; S. 1794, legislation affecting the Federal Supply Schedule; and S. 2093, the Contract Disputes Improvement Act of 1983.

OVERSIGHT ACTIVITIES

1. Management of the U.S. Synthetic Fuels Corporation.

In 1983, the subcommittee undertook an extensive investigation of the management of the Synthetic Fuels Corporation (SFC), the federally funded corporation created in 1980 to foster the development of a commercial synthetic fuels industry.

The subcommittee held hearings on July 27, and 29, 1983 to examine the operations of the Board of Directors, which governs the SFC, and to review the Corporation's administration expenses, particularly for consultants and employee reimbursements. Allegations of vote trading among two of the directors were also investigated.

The subcommittee's principal finding was that the SFC's progress has been impeded by serious conflicts and communications failures between the full-time and part-time directors. These problems led three of the directors to seek the replacement of the Corporation's president and a reorganization of the SFC's operations. Concerns about the adequacy of the management of the Corporation, the subcommittee found, interfered with the Board's ability to give its full attention to investment decisions. Moreover, the management of the Corporation failed to heed warning signals of serious problems, including a critical report by a consultant, comments by outside directors and a negative industry survey.

The subcommittee also examined the SFC's procurement practices and found, with the exception of contracts awarded to consult-

ants, the SFC's procurements were all highly competitive and well-documented. The subcommittee discovered, however, that all of the individual consultant contracts awarded by the Corporation between October 1981 and July 1983—51 contracts totaling $600,000—were awarded without competition. Subcommittee review of the contract files revealed weak justification for the sole-source award as well as the need for an outside consultant, and poorly defined scope of the consultant's responsibilities. The subcommittee concluded that many of the contracts were not awarded on merit, but rather because the consultant was a former business associate of an officer of the SFC. The subcommittee recommended changes in the Corporation's procurement manual to guard against unnecessary sole-source contracts, and suggested that the Corporation reduce its reliance on outside consultants.

Another concern raised during the hearings was a conversation between two directors of the Corporation, Victor Schroeder and Milton Masson, on March 23, 1983. The allegation was that the two directors had improperly agreed to exchange favors in support for votes at an upcoming Board meeting. The subcommittee determined that this conduct created the appearance of impropriety, and although the Justice Department found insufficient evidence to warrant prosecution, the subcommittee concluded that the directors' agreement indicated an insensitivity to ethical considerations. The subcommittee also found that the SFC Chairman did not act promptly in referring the allegations to the Inspector General for a preliminary investigation.

The subcommittee's investigation, as well as actions taken by three of the SFC directors, led to the resignation of Mr. Schroeder as president on August 26, 1983. In its final report issued in September of 1983, the subcommittee criticized the management of the SFC for running the Corporation more like a family-owned business than the public, federally funded entity charged with the wise investment of billions of tax dollars which it was. The subcommittee made specific recommendations for reforming the Corporation's organization, procurement practices, and conflict-of-interest policies. It also recommended that SFC full-time directors and officers be subject to the same standards of ethical conduct which govern executive branch employees, and that all SFC directors, officers and employees be covered by criminal conflict-of-interest laws. Some of these recommendations were adopted by the SFC while others were enacted as part of the Continuing Resolution passed in September 1984.

2. Data Protection Issues.

A. Computer Security

Concerned by the numerous computer break-ins reported in the media in recent months, the subcommittee began an investigation of the adequacy of computer security practices in the private sector and in executive branch agencies. On October 25 and 26, 1983, the subcommittee held hearings on the vulnerability of Federal and private sector computer banks to access by unauthorized users. On the first day of the hearings, the subcommittee received testimony from several private sector computer security experts who empha-

sized the growing threat of computer crime against businesses and financial institutions and explained practices used by various industries to secure their systems.

The subcommittee also heard testimony from a former "computer hacker" who had broken into computers in credit bureaus and changed the credit ratings of prominent persons. The hearing vividly illustrated how computer break-ins can result in fraud and embezzlement, and can compromise confidential business, investment and personal information.

At the October 26 hearing, the subcommittee focused on computer security within the Federal Government. Testifying were Joseph R. Wright, Director of the Office of Management and Budget; Richard P. Kusserow, Inspector General of the Department of Health and Human Services; Walter L. Anderson of the General Accounting Office; John C. Keeney from the Department of Justice; and Richard H. Shriver of the Treasury Department. Their testimony revealed that the quality of computer security varies widely among executive branch agencies, and that while government-wide policies do exist, many agencies are not adequately implementing computer security procedures. OMB Director Wright and the GAO testified that policies governing computer security should be updated and that OMB oversight of compliance with computer security policies should be improved. OMB stated that it would revise its computer security circular (A–71), and Health and Human Services Inspector General Richard Kusserow described the President's Council on Integrity and Efficiency's program to improve computer security training and audit techniques.

A theme stressed by witnesses at both hearings was the inadequacy of existing Federal criminal laws to deal effectively with computer criminals. To remedy this problem, on February 8, 1984, Senators Cohen, Levin, and Rudman introduced S. 2270, the Computer Crime Prevention Act of 1984. Senators Roth, Nunn, and Bingaman subsequently cosponsored the bill. This legislation proposed criminal sanctions for unauthorized access and use of computers owned or operated by the Federal Government or financial institutions, and computer networks operating in interstate commerce. Provisions similar to those contained in S. 2270 pertaining to computer crime against government and financial records were enacted as part of the Continuing Resolution (Public Law 98–473).

B. Computer Matching: Taxpayer Records

During the 98th Congress, the subcommittee continued to investigate issues raised by the escalating transfer of computerized data to and from the Federal Government. Of particular concern was the impact of computer matching on the rights of private individuals. On June 6, 1984, the subcommittee held a hearing to examine computer matching of taxpayer records. The hearing focused on the collection and disclosure of data and other information by the Internal Revenue Service (IRS).

In passing the Tax Reform Act of 1976, Congress established the general principle that tax records should be kept confidential. Since that time, however, Congress has authorized the IRS to share certain types of tax information with other Government agencies

for specific, non-tax purposes---often to be used in matches to detect fraud.

In addition to supplying tax information to other Government agencies, the IRS has stepped up its own collection of information in an effort to detect non-filers and individuals who under-report their incomes. This effort has raised questions about the type and extent of information which the Government should be permitted to collect on private individuals.

The following issues were considered by the subcommittee:

Is there sufficient congressional and executive branch oversight of computer matching of IRS records?

How do agencies receiving information from the IRS handle and protect this sensitive data?

Do such disclosures have an adverse effect on voluntary compliance with our tax laws?

Do the disclosures abridge an individual's right to confidentiality of his or her tax information?

Are adequate procedures in place to protect the rights of individuals whose records are matched?

The subcommittee believes that greater oversight of computer matching is needed to ensure that the proper balance is struck between the goals of governmental efficiency and individual privacy. The subcommittee is also concerned that the increasing use of tax information for non-tax purposes will have a detrimental effect on tax compliance. The subcommittee plans to continue its oversight of this issue in the 99th Congress.

3. The Role of the Administrative Law Judge in the Social Security Disability Program.

Following up on its 1982 hearing on the Social Security disability reviews, the subcommittee held a hearing in June 1983 to examine allegations that the Social Security Administration (SSA) was pressuring administrative law judges to deny disability claims.

Administrative law judges play a key role in disability adjudications. They hear appeals from individuals whose disability benefits have been terminated, as well as from applicants who have had their initial claims rejected. The subcommittee investigated charges that the SSA was pursuing policies which could jeopardize the ability of administrative law judges to render independent decisions on disability appeals, specifically, that the SSA's practice of reviewing favorable decisions had a negative effect on the judges' decisionmaking. Further charges stated that SSA pressure on the judges to decide cases more quickly hampered the ability of the law judges to compile a well-documented record.

The subcommittee also heard testimony regarding SSA's policy of non-complinace in certain adverse decisions. Although SSA would comply with the court order in the particular case decided, the agency did not consider itself bound by the court's rulings on future cases. Apart from the serious constitutional questions raised by this practice, the subcommittee was concerned about the impact of this policy on disability claimants. When the SSA issues a ruling of non-compliance, it in effect forces an identically situated claimant to go to court in order to obtain a favorable ruling and relief.

Based on its hearing and investigation, the subcommittee concluded that the SSA was, in fact, pressuring the administrative law judges to reduce the number of claims they allowed. Agency actions which comprise the independence of the law judges not only violate the law, but also undermine public confidence in the integrity of such administrative proceedings and jeopardize the rights of disabled workers under the law. In its October 1983 report, the subcommittee made several recommendations to ensure that administrative law judges can render impartial decisions supported by a full and fair hearing record. The SSA has since discontinued some of the objectionable practices criticized by the subcommittee.

REPORTS, PRINTS, AND STUDIES

The subcommittee issues legislative reports to accompany the Competition in Contracting Act (S. Rept. 98–50), the Office of Federal Procurement Policy Act Amendments (S. Rept. 98–214), the Office of Government Ethics Reauthorization (S. Rept. 98–59), and the Civilian Agency Multi-year Contracting Act (S. Rept. 98–417).

Investigative reports were published on the subcommittee's oversight hearings on the management of the Synthetic Fuels Corporation and the Role of the Administrative Law Judge in the Social Security Disability Program.

The subcommittee also compiled an updated version of the Ethics in Government Act of 1978. The subcommittee undertook this project when staff became aware that Designated Agency Ethics Officials (DAEOs) did not have a current compilation of the Act. The subcommittee published an updated version of the law, and working with the Office of Government Ethics, distributed more than 600 copies to ethics officials, media representatives and other interested parties.

Also in the ethics area, the subcommittee commissioned two GAO reports on the designation of senior employees subject to post-employment restrictions and on certain other aspects of the Ethics Act. The subcommittee also worked with the OGE to improve its training programs and the administration of the confidential reporting system.

Finally, the subcommittee worked closely with the Office of Federal Procurement Policy on several administrative initiatives, including policy letters on competition and the maintenance of the Federal Acquisition Regulation system.

○